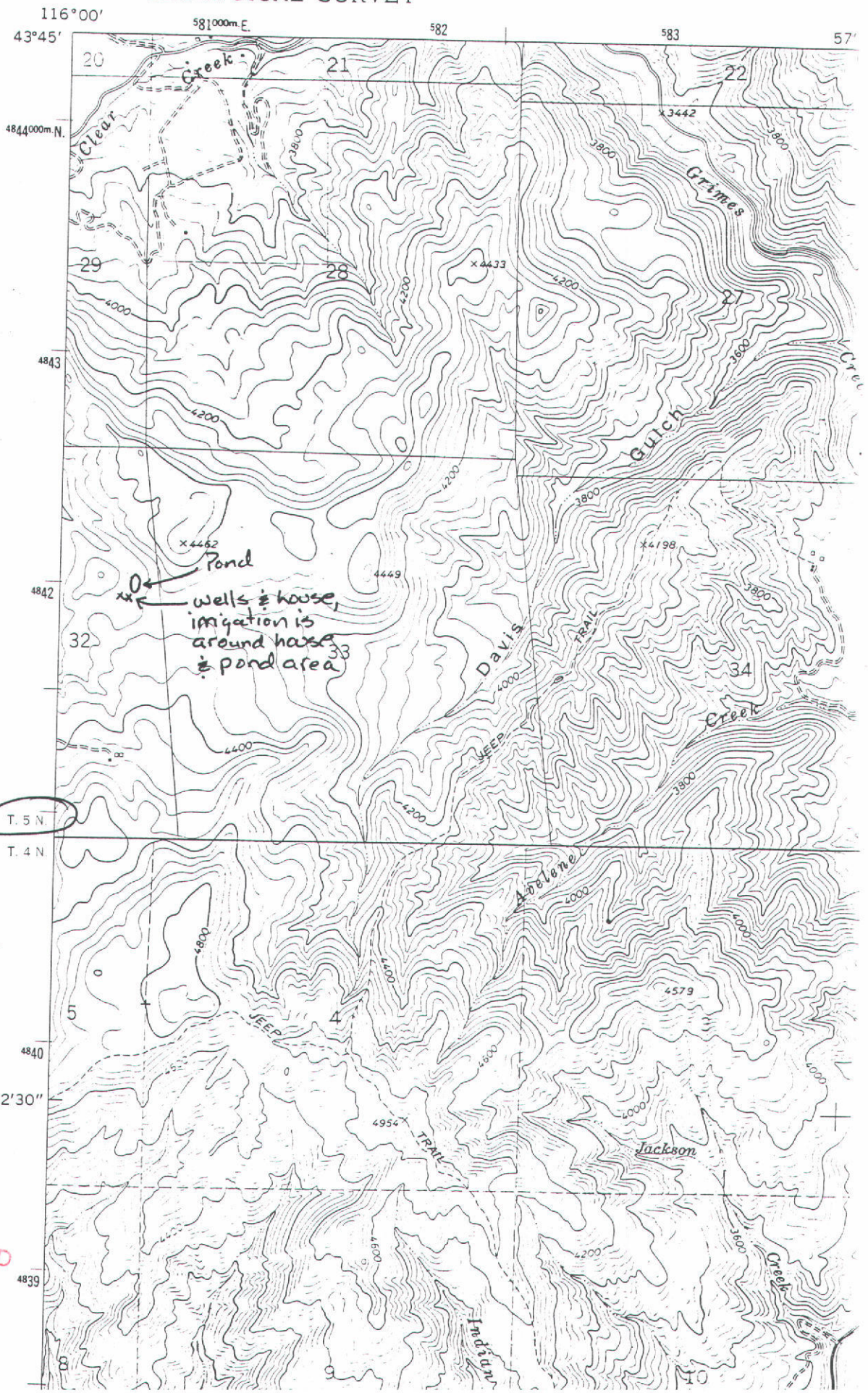
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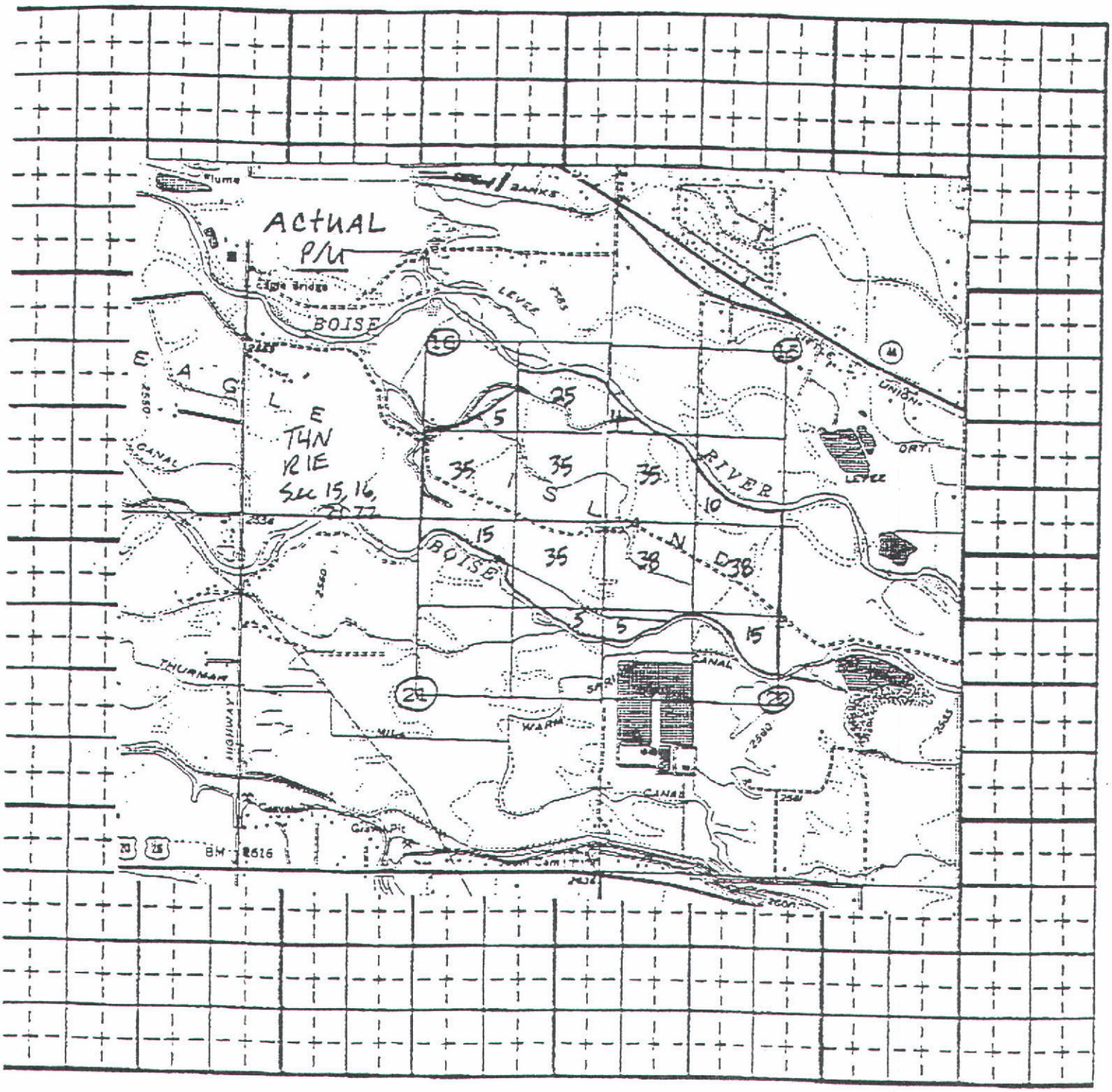
UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

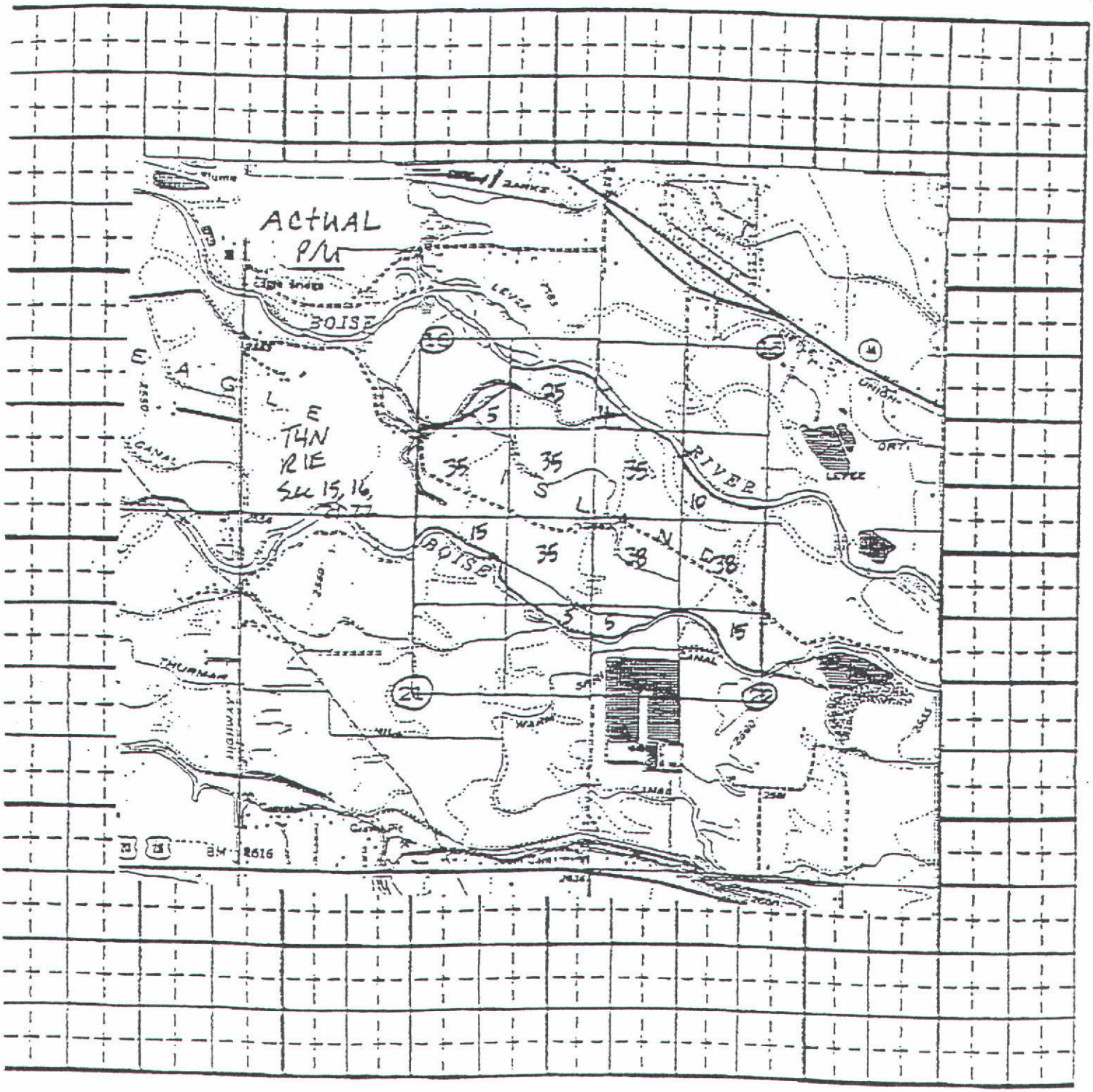


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Map of Project: show clearly the p[redacted]d diversion, place of use, section number, t[redacted]hip, and range number.

Scale: 2 inches equals 1 mile



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• = Mahoney pond

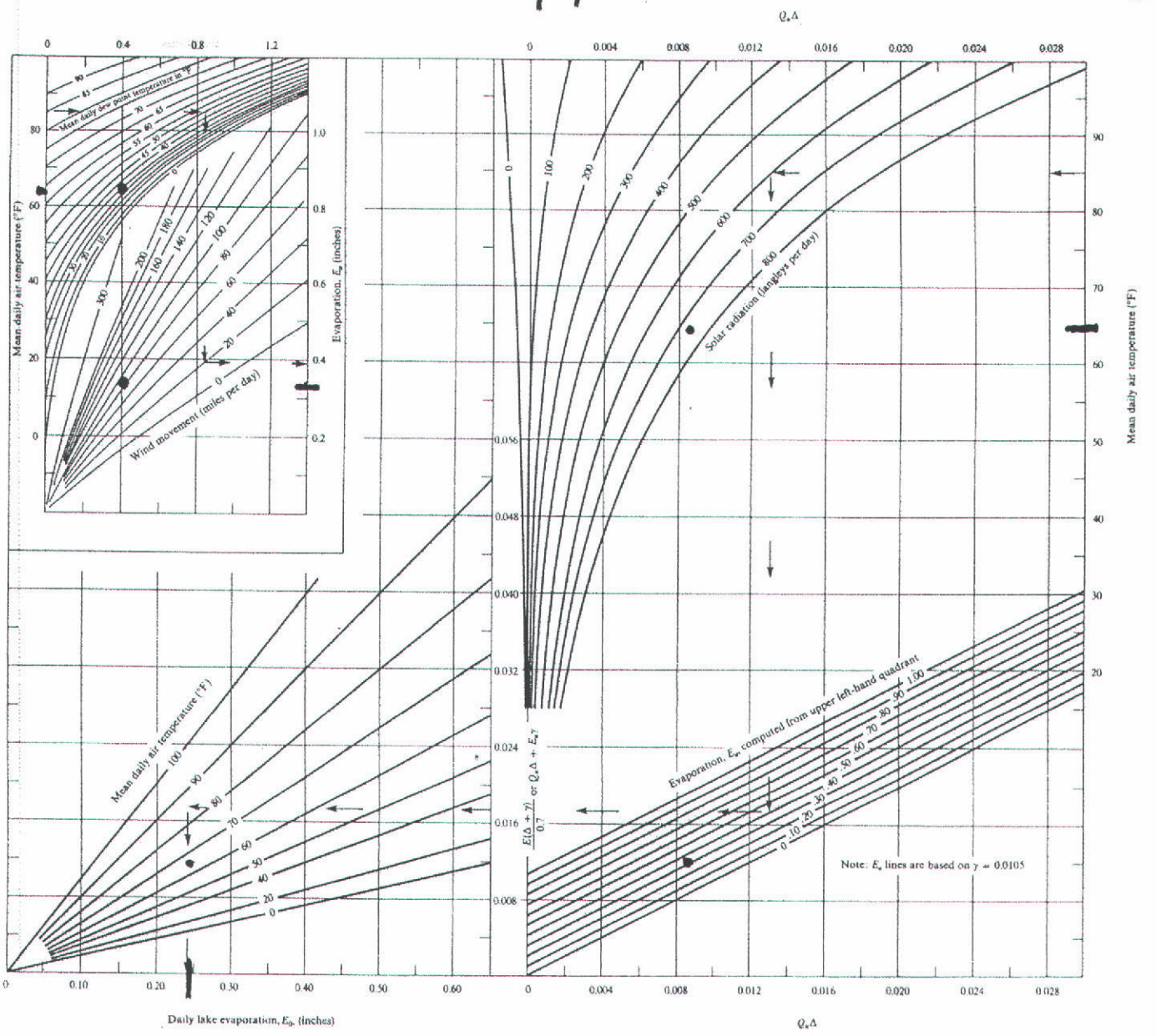
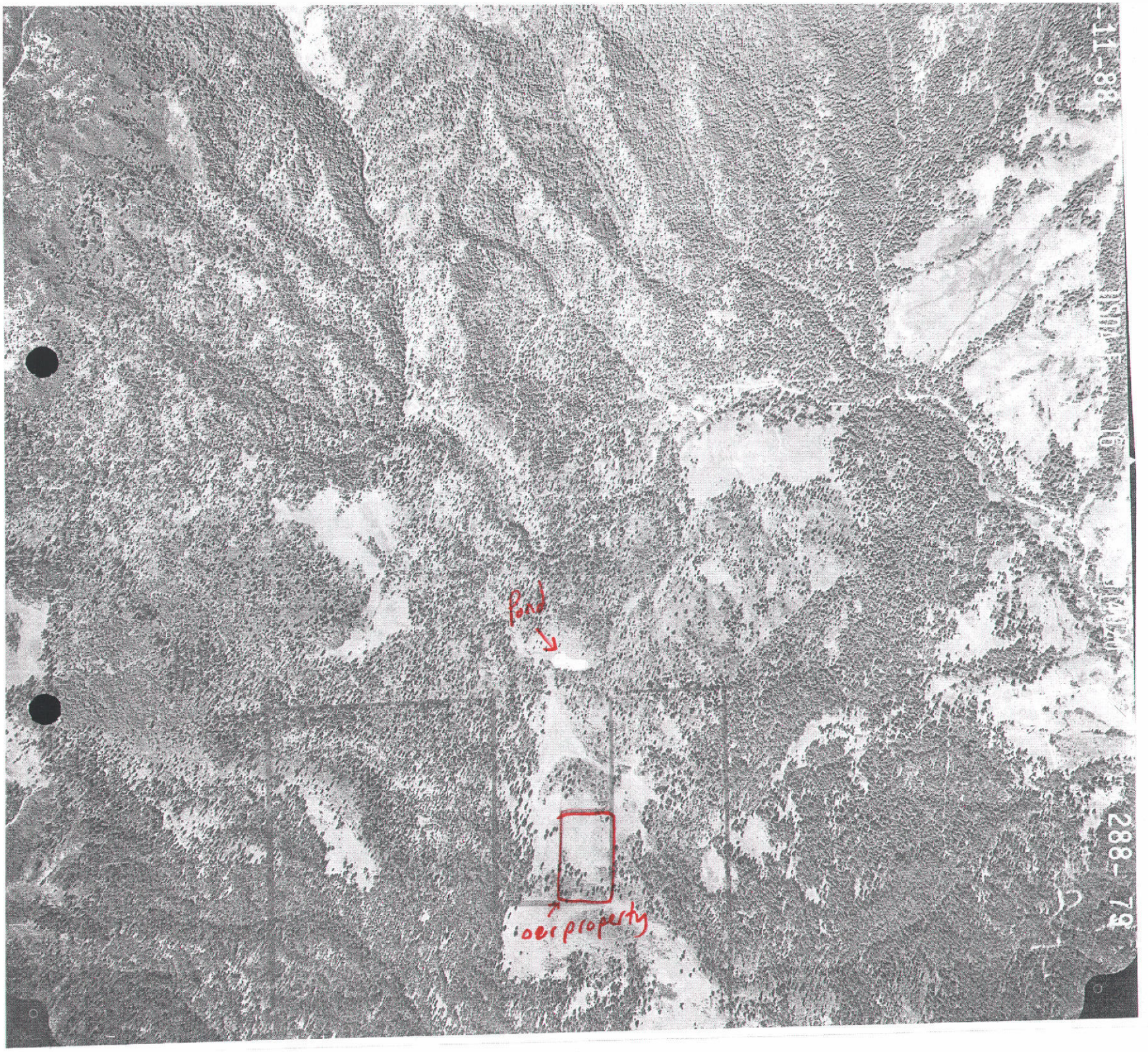


Figure 4-9 Computation of lake evaporation from meteorological data. To use the diagram: (1) enter upper left diagram with mean daily air temperature; (2) at mean daily dew-point temperature, read down to wind measurement; (3) read horizontally to right scale of E_a; (4) enter upper right diagram with mean daily air temperature, move left to value of solar radiation; (5) move downward to previously computed value of E_a in lower diagram; (6) thence left to lower left diagram to mean daily temperature; (7) thence downward to read answer, daily lake evaporation. The dew-point temperature is the temperature to which the atmosphere must be cooled before its water vapor will condense. It is therefore a measure of the vapor pressure and is routinely published with other weather records.

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You can get copies of these from the Forest Service.

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GAL NOTICES

Published in The Idaho World May 23, 30, June 6 and 13, 2001

RESOLUTION #2001-18

A RESOLUTION DECLARING A LOCAL DROUGHT DISASTER EMERGENCY EXISTS IN BOISE COUNTY.

WHEREAS, Idaho Code §31-801 grants general powers and duties, subject to the restrictions of law, to the Boards of County Commissioners in their respective counties; and

WHEREAS, Idaho Code §31-828 grants the Board of County Commissioners authority "to do and perform all other acts . . . which may be necessary to the full discharge of the duties of the chief executive authority of the county government."; and

WHEREAS, Idaho Code §42-222A authorizes the Director of the Department of Water Resources, following the declaration of a drought emergency for an area designated by the Director and approved by the Governor, to allow temporary changes of point of diversion, place and purpose of use of valid existing water rights, so long as said changes will not injure existing water rights; and

WHEREAS, Idaho Code §46-1011 provides that the Chairman of the Board of County Commissioners may declare a local disaster emergency, which may be continued in excess of seven days with consent of the Board of County Commissioners; and

WHEREAS, Idaho Code §46-1002(3) provides, in part, that a "disaster" includes the imminent threat of widespread or severe damage or loss of property resulting from any natural or manmade cause; and

WHEREAS, Idaho Code §46-1002(4) provides, in part, that an "emergency" includes the imminent threat of a "disaster" or condition threatening property which requires state emergency assistance to supplement local efforts to protect property or to avert of lesson the threat of "disaster"; and

WHEREAS, based on the attached Exhibit "A", water storage appears to be at 57% of normal levels and runoff appears to be at 44% of normal levels,

Bids will be received by the Idaho Department of Lands until 5:00 p.m., Monday, July 23, 2001, for the following:

AGI CONSTRUCTION PIT RECLAMATION

This project is located west of and adjacent to the State Highway 21 right-of-way, north of the intersection of State Highway 21 and East Highway 21 Extension and consists of reclamation on approximately three (3) acres in size. The successful bidder must provide performance and payment bonds for 85% of the contract amount. Successful bidder must furnish proof of workman's compensation and liability insurance as required in the contract terms within 20 days of receiving written notification they are the successful bidder.

Bid packets, including specifications, contract and bid forms are available from the Idaho Department of Lands, 954 W. Jefferson Street, Boise, Idaho 83720 or by calling Joe Drumheller at (208) 334-3488.

To facilitate accurate bid submission, bidders may inspect the site with a Department of Lands representative. A field review is scheduled for Monday, July 9, 2001. Please contact Joe Drumheller at (208) 334-3488 or Sharon Murray at (208) 334-0231 on or before June 29, 2001 to confirm attendance at the pre-bid site inspection.

Mailed bids shall be addressed to the Idaho Department of Lands, Bureau of Minerals, P.O. Box 83720, Boise, Idaho 83720. Express or hand delivered bids shall be directed to the Idaho Department of Lands, Bureau of Minerals, 954 W. Jefferson Street, Boise, Idaho 83720. All bids must be received at the 954 W. Jefferson Street address by 5:00 p.m. on Monday, July 23, 2001 to be considered. Bids must state on the envelope that the bid is for the AGI Reclamation Project. All bids will be publicly opened at the Idaho Department of Lands, First Floor Conference Room, on Wednesday, July 25, 2001 at 10:00 a.m.

The Idaho Department of Lands reserves the right to reject any or all bids.

Published in The Idaho World June 13 and 20, 2001

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BOISE BASIN

Idaho City Water Supply Is Sufficient.... For Now

by **Betsy Hill**

IDAHO CITY. At the June 13th meeting of the City Council of Idaho City, Mayor Phillip Canody reported to the council that the city water supply is "holding its own pretty well." He said that the city pumps an average of 130,000 gallons on weekdays and 190,000 on weekend days. Canody predicted that alternate day watering will start soon. He said that people have been doing a pretty good job conserving water and urged residents to keep it up. He said that the city has received permission to do minor damming work on Elk Creek and that it will be the same thing the city did last year.

Parks Committee Chairman Roger Lewis told the mayor and council about a meeting he had with the Idaho Department of Transportation regarding requirements for the new Basin Community Park northeast of town. "Something's come up," he said. "The first major roadblock in park construction." He explained that the Transportation Department had told him that a six foot tall chain link fence would be needed on both sides of the highway to eliminate multiple spots where people might cross the road, as well as a widening of Highway 21 for a turn lane. Councilwoman Marie Marks said that while safety concerns do exist, she hoped that other options could be explored. The parks commission will look into other options and report back to the council.

The council discussed a request from Boise County to begin talking about the possibility of the city donating the EMT/Community Justice building to the county. The council agreed that the city needs the revenue from the lease of the building at this point. They indicated that they might look at the idea again in 2003, when the county's lease expires.

ACCEPTED NOV 12 2002

640 acres = 20 acres
27,878,400 sq ft X sq. ft.

871,200 sq. ft. = 20 acres

5.6146 ft^3 = 1 barrel

7758 barrels in One Acre Feet

7758 barrels / 1 acre = X / 20 acres ≈ 155,160 Barrels in 20 acres

Gallons water used in 20 acre/1 foot: Year: 6,516,720 gallons

That is 17,854 gallons per day



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Received from Protestant Mangum at prehearing conference -SL

RECEIVED
JUL 0 2 2001
WATER RESOURCES
WESTERN REGION



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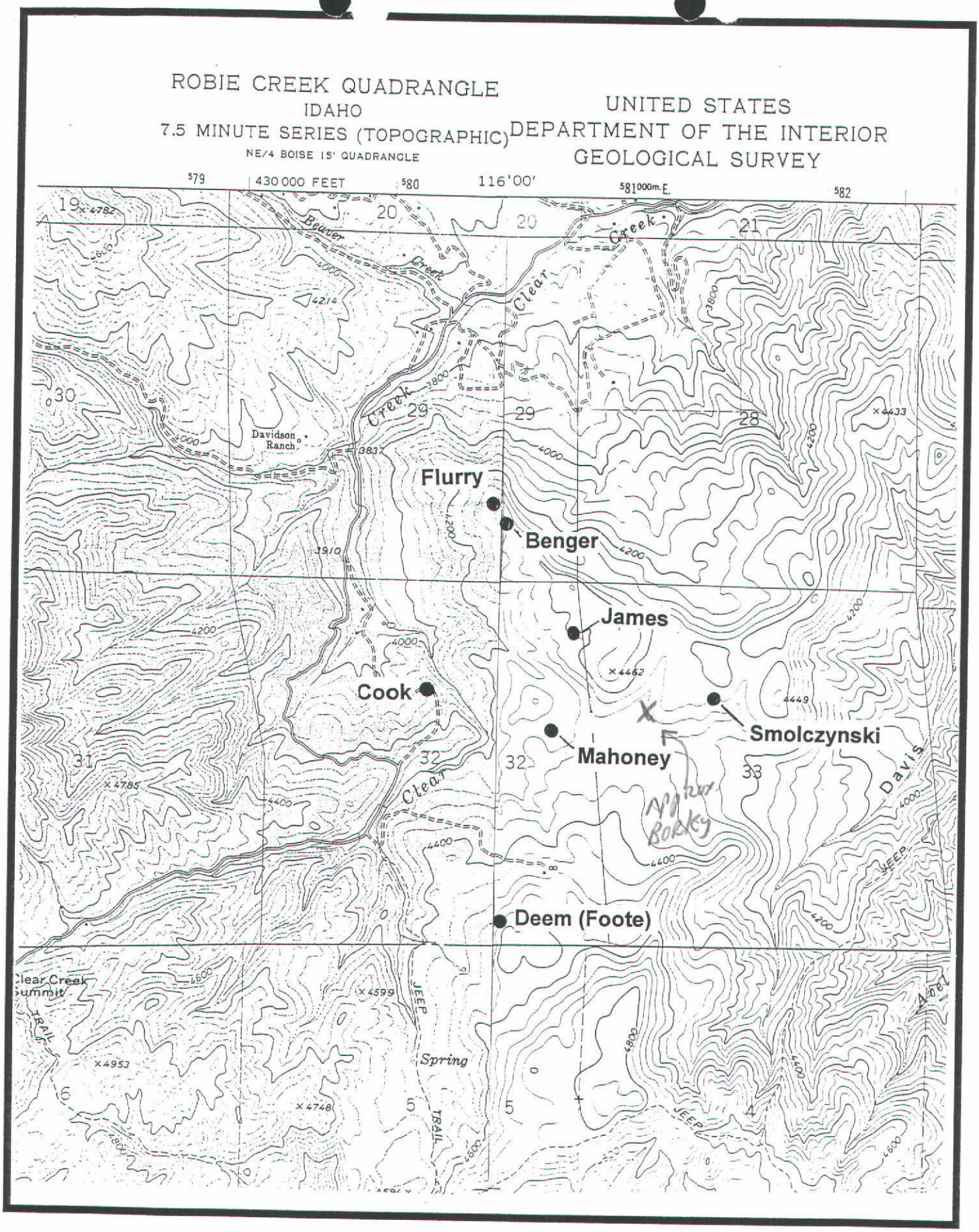


FIGURE 1 - WELL LOCATION MAP

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8 22'01




8 22 01




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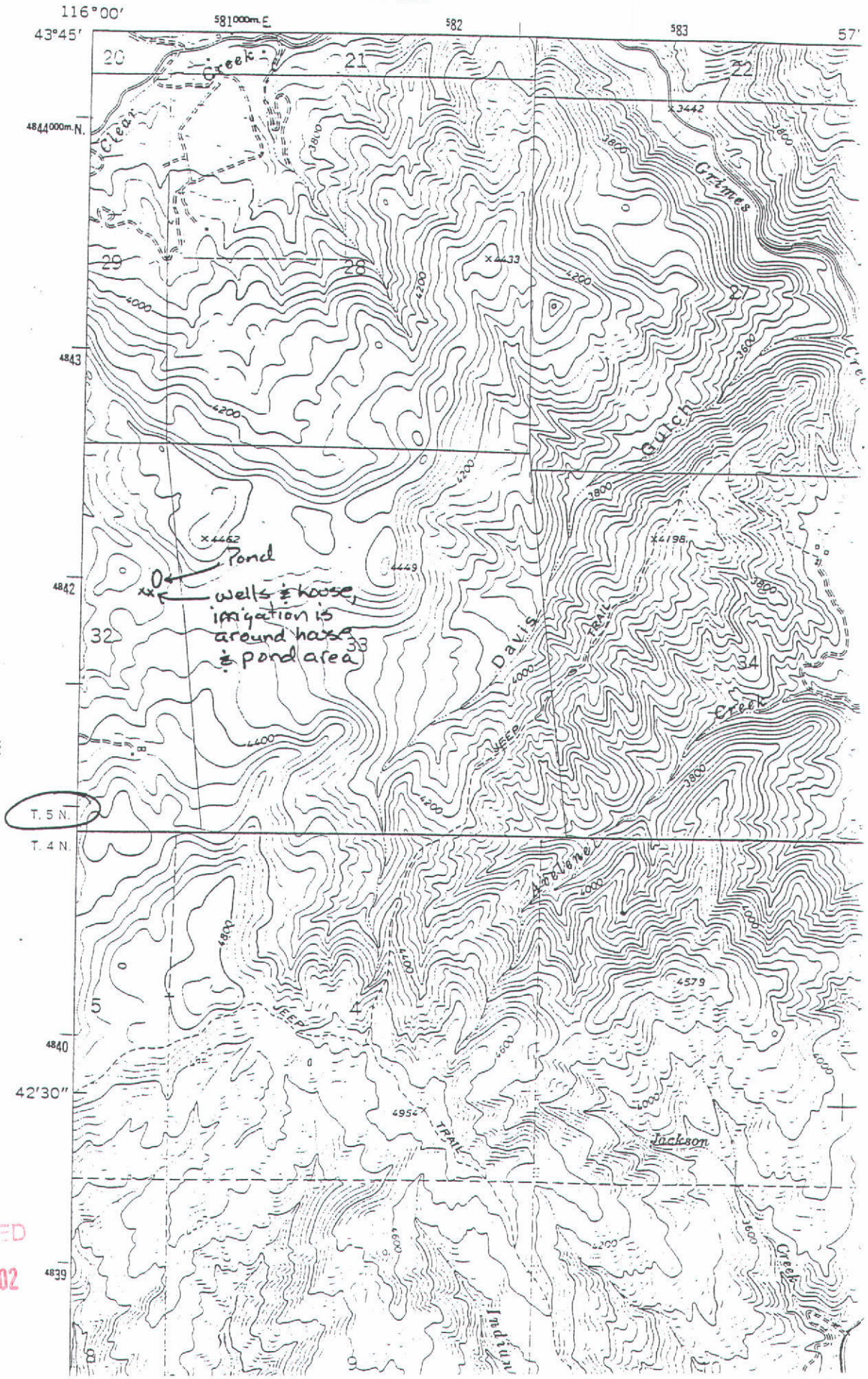

8 22'01


OFF T2
TOTAL CONTROL
Rain Off
Run
Current Time & Date
Program
Station Times
Start Times
Water Days
Water Budget
Program Erase
15 STATIONS
hydrol
8 22'01




8'22'0

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

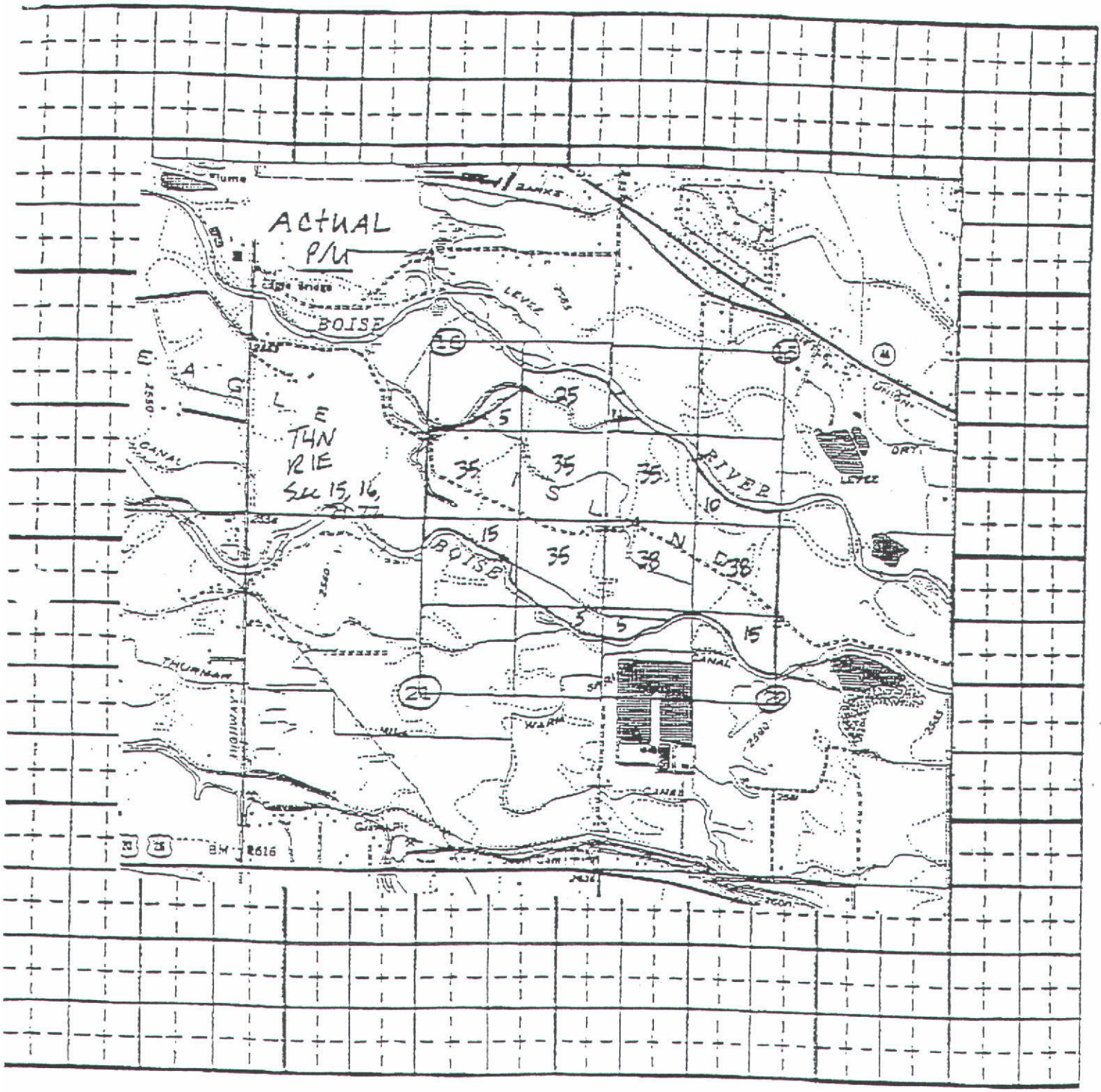


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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

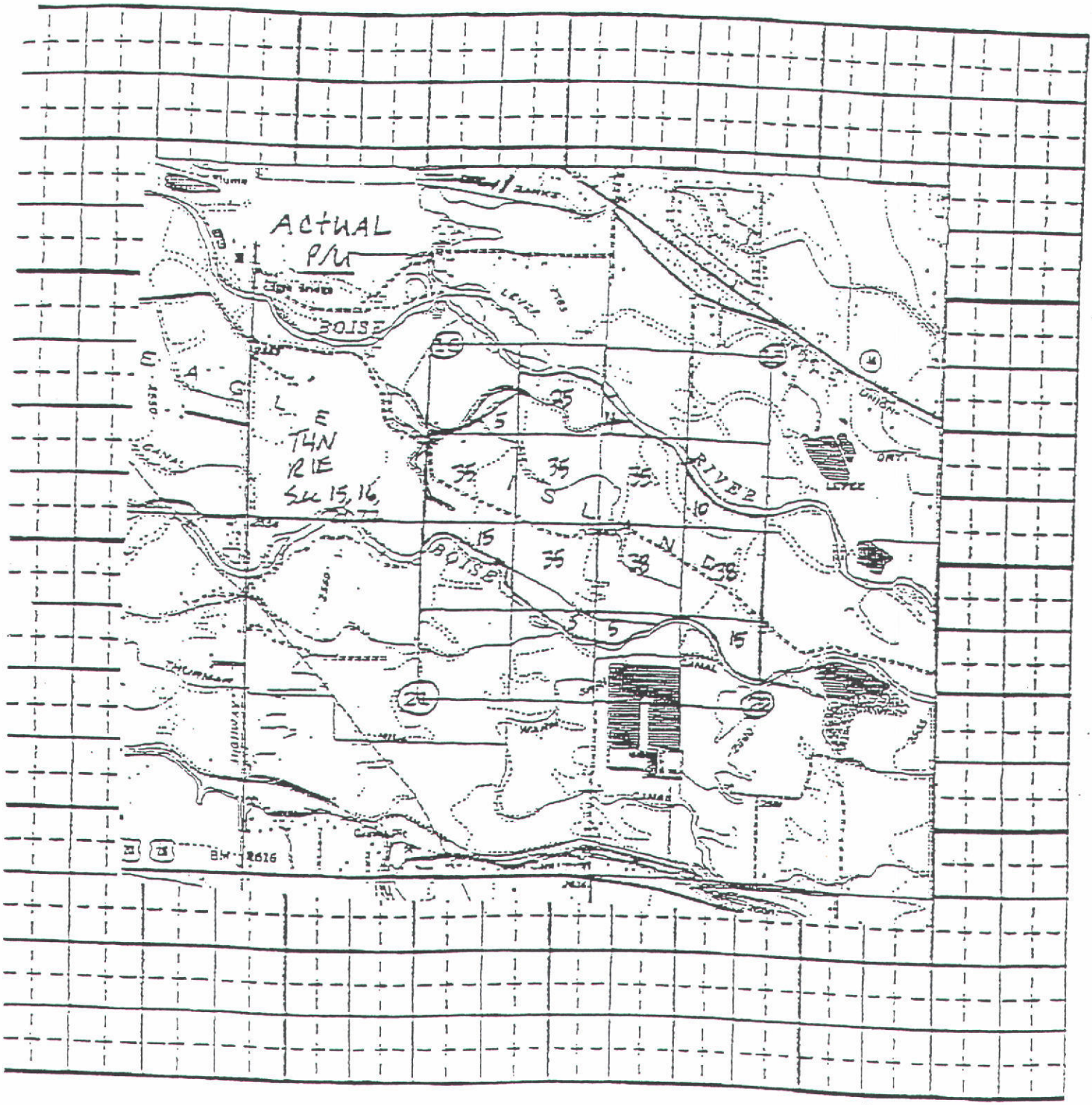


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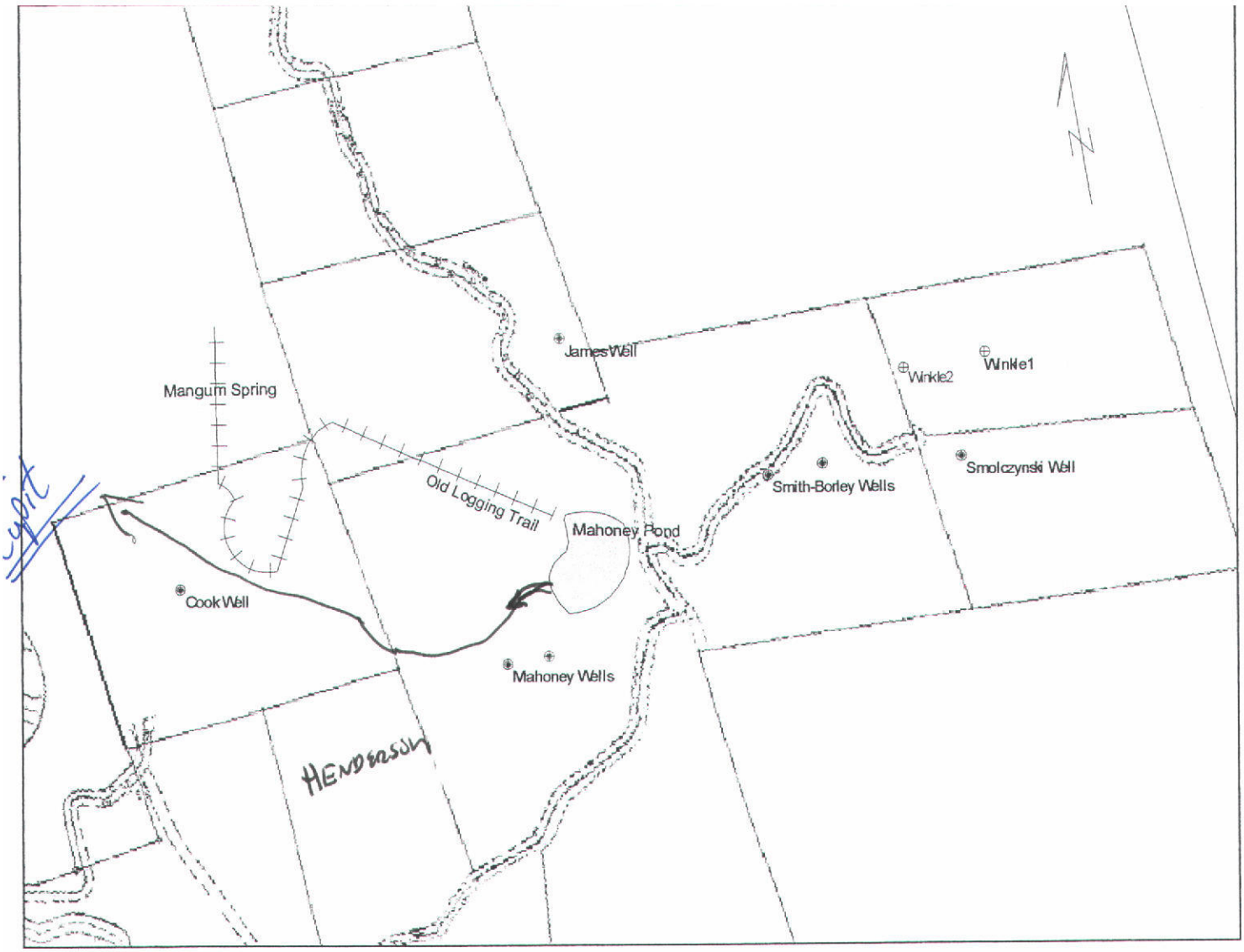
Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

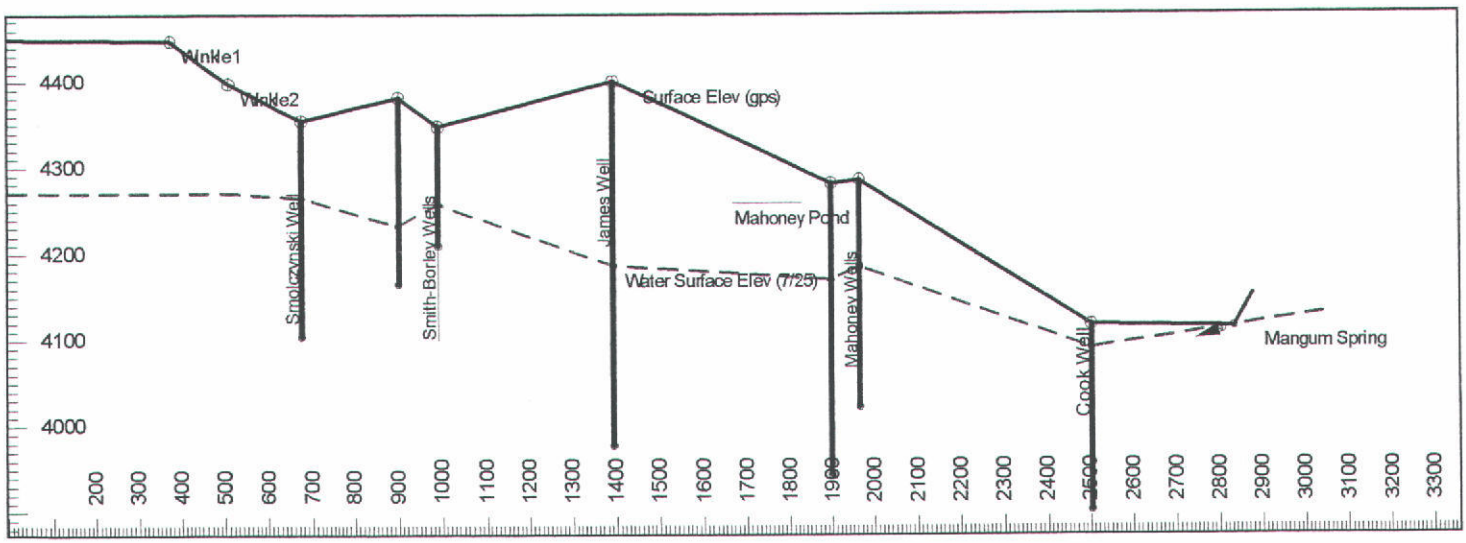


Last Name _____ Idaho No. _____

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The above figure is a layout of the area in question of the Mahoney water right application:
All features shown are plotted using GPS latitude and longitude (converted to UTM).
Background Map is a bitmap image and is not 100% accurate to GPS based features.



The above figure is a profile representing feature surface topology vs. Static Water levels vs. Well Depths:
Static well measurements are from 7/25/01 pump test report
Well depths are from IDWR well reports.

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Exhibit #2

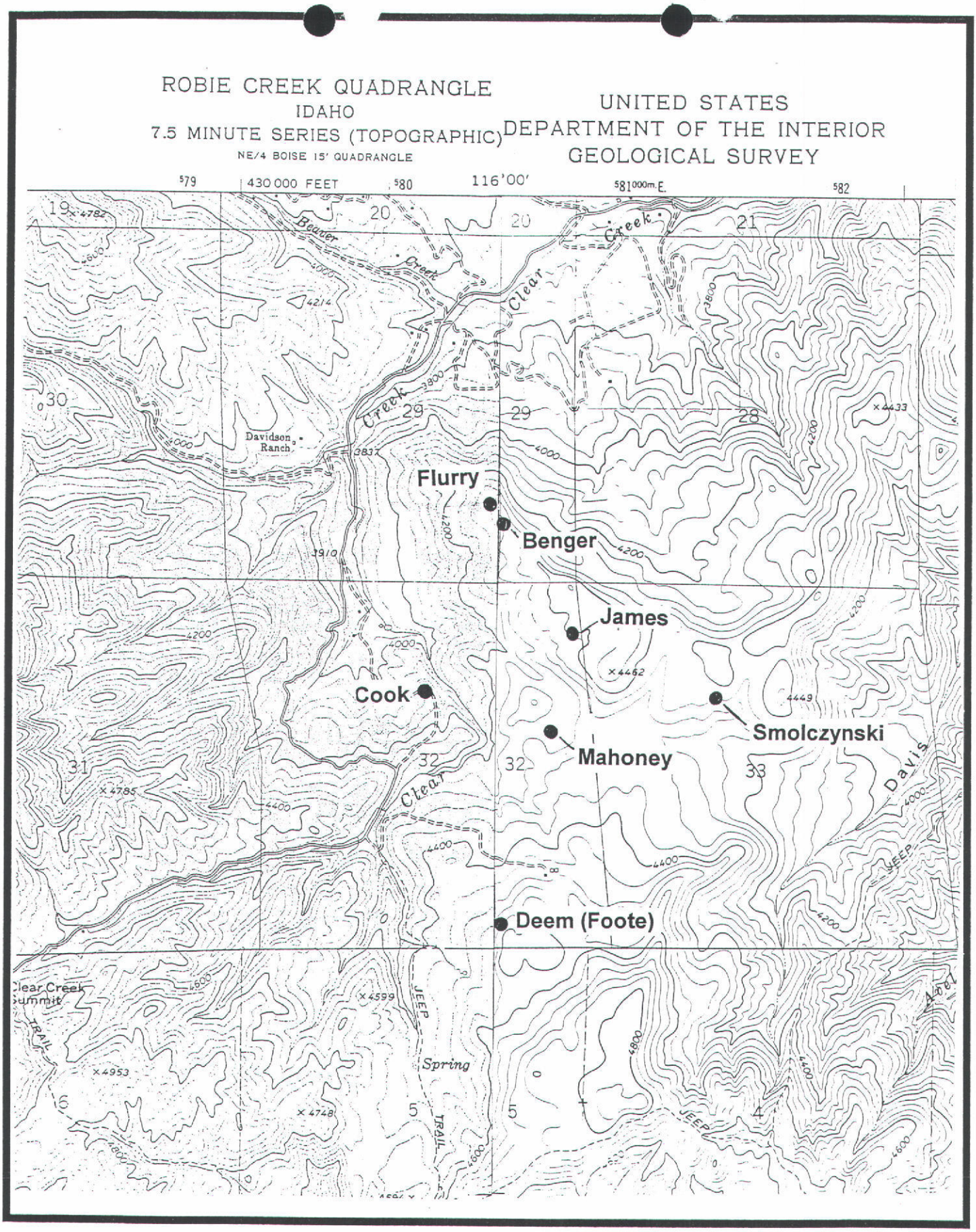


FIGURE 1 - WELL LOCATION MAP

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7-11-88
USDA-F
16
614020
288- 80
Exhibit 100
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08-21-96
USDA-F
16
614020
1996-115
WILD 15/4 UAG
13048 152.81
Exhibit 101
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EXHIBIT 201 8/96 KOS

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NOV 12 2002

James E. Mahoney
53 Settlers Road
Boise, ID 83716

RECEIVED
JAN 17 2003
Department of Water Resources

January 16, 2003

Deborah J Gibson
Administrative Assistant
Idaho Department of Water Resources
1301 North Orchard
Boise, Id 83706

Re: Proof of Beneficial Use on Permit No. 63-31218

Dear Ms Gibson:

Please find enclosed a revised Proof of Beneficial Use form. The previous form inadvertently indicated I am irrigating 5 acres of land, and should have correctly stated that the number of acres being irrigated is 2 acres.

The following measurement table is provided as verification of the area being irrigated:

Area Description	Length	Width	sq ft	Acres	Percent
North end of Pond	100	26	2600	0.059688	3.03%
West side of pond	440	26	11440	0.262626	13.32%
House to South end of pond	240	185	44400	1.019284	51.68%
House to beginning of berm	35	25	875	0.020087	1.02%
Berm North of turnaround	40	100	4000	0.091827	4.66%
East side of driveway	40	120	4800	0.110193	5.59%
West side of drive	70	26	1820	0.041781	2.12%
West side of drive	70	26	1820	0.041781	2.12%
Retaining Wall to Turnaround	60	26	1560	0.035813	1.82%
South side of house	140	40	5600	0.128558	6.52%
West side of House	100	70	7000	0.160698	8.15%
	Total sq ft		85915	1.972337	
	Total Acres (/43560)		**1.972337**		

Measurement of Water Diverted

Per requirements of the Prelim Order, 3 Flow Meters were installed. On January 16, 2002, Mr. Butch Anderson, of Storm and Water System Management Company, installed flow meters on my 6"groundwater well, and on my injection line to the 8" groundwater well. In May of 2002, prior to any irrigation activity, Mr. Anderson completed installation of the 3rd flow meter on the 8" groundwater well. The following tables show the recordings of the monthly readings I have taken from all 3 flow meters since their installation:

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Flow Meters on House						
Date	6" Well Meter Reading	Injection Meter Reading	6" Well Meter Delta	Injection Meter Delta	#days	6"/Day
5-Jan	0	0	0	0		
3-Feb	552550	546400	552550	546400	28	19734
3-Mar	970070	957870	417520	411470	30	13917
7-Apr	1332330	1313070	362260	355200	34	10655
2-Jun	1703350	1671550	371020	358480	55	6746
7-Jul	1773860	1728070	70510	56520	35	2015
5-Aug	1811920	1747530	38060	19460	28	1359
1-Sep	1844180	1764450	32260	16920	26	1241
8-Oct	2022000	1928820	177820	164370	37	4806
6-Nov	2331200	2229080	309200	300260	28	11043
15-Dec	2863900	2754370	532700	525290	39	13659

Irrigation Well				
Date	8" Well Meter Reading	8" Well Meter Delta	#days	8"/Day
22-May	17000			
2-Jun	208700	191700	10	19170
7-Jul	901900	693200	35	19806
5-Aug	1331600	429700	28	15346
1-Sep	1671300	339700	26	13065
8-Oct	2592700	921400	37	24903
6-Nov	3352200	759500	28	27125
15-Dec	3358300	6100	39	156

Year to Date Pumping Summary							
As of Date	6" Total Diversion	8" Total Diversion	Total Diversion	Acre Feet	# days	Divert/day	Average GPM
2-Jun	1703350	191700	1895050	5.82	147	12891	9.0
7-Jul	1773860	884900	2658760	8.16	182	14609	10.1
5-Aug	1811920	1314600	3126520	9.59	210	14888	10.3
1-Sep	1844180	1654300	3498480	10.74	236	14824	10.3
8-Oct	2022000	2575700	4597700	14.11	273	16841	11.7
6-Nov	2331200	3335200	5666400	17.39	301	18825	13.1
15-Dec	2863900	3341300	6205200	19.04	340	18251	12.7

Measurement of Water Static Depth to Water

Per requirements of the Prelim Order, I am required to measure and record the static depth to water each month during the development period, on my 8" well used for irrigation. I have in fact, been taking monthly measurements of the static depth to water in both my wells, using a well depth meter that I own, and as trained by geo-hydrologist Terry Scanlan. I began taking readings

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in June, prior to irrigating with the 8" well. The following table shows the recordings of the monthly measurements:

Well Depths - Distance to Static				
Date	6" Well Static (btoc)	6" Well Hrs Rest	8" Well Static (btoc)	8" Well Hrs Rest
2-Jun	103.5	1.00	113.4	27.0
7-Jul	103.1	1.00	116.8	12.0
5-Aug	100.0	12.00	110.7	11.0
1-Sep	97.5	1.00	104.7	48.0
8-Oct	116.9	4.00	116.7	46.0
6-Nov	120.1	0.25	101.5	288.0
15-Dec	112.6	0.25	92.7	1224.0

Per your instructions, I have copied this letter to Norm Young. If this letter is not a sufficient report filing per the expectations of the preliminary order, please contact me as soon as possible.

Sincerely,

James E. Mahoney

Cc: Norm Young

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 MAR 1 1 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	))))	**PRELIMINARY ORDER**

This matter came before the Idaho Department of Water Resources ("Department") as a protested application to appropriate ground water in the Boise River Drainage. A hearing having been held, the hearing officer now enters this preliminary order:

FINDINGS OF FACT

1. James E. Mahoney ("applicant") filed application for permit No. 63-31218 ("the application") on March 23, 2001 seeking to appropriate 0.14 cubic feet per second ("cfs") of ground water for domestic, heating, irrigation and diversion to storage purposes. The application also seeks the right to store 20 acre feet per annum ("af/a") from ground water for aesthetics, recreation, wildlife and fire protection purposes.

2. The application includes the following details:

Point(s) of Diversion:	Two wells located in the SE1/4NE1/4 Section 32, Township 5 North, Range 4 East, Boise Meridian, Boise County, Idaho.	
Place of use:	All uses will occur in the SE1/4NE1/4 Section 32, Township 5 North, Range 4 East, Boise Meridian.	
Area to be Irrigated:	Two acres	
Number of Homes:	One home, plus a guest house	
Rates of Diversion:	Domestic	0.04 cfs
	Heating	0.04 cfs
	Irrigation	0.06 cfs
	Diversion to Storage:	0.14 cfs
	Storage for aesthetics, recreation (fishing), wild-life and fire protection:	20 af/a
	Total:	0.14 cfs and 20 af/a
Period of Use:	Year-round for all uses except irrigation is 4/1 to 10/31.	

3. The application includes a mitigation plan intended to prevent injury to existing rights to surface water from the Boise River. The plan offers to retire 0.06 cfs of

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water right No. 63-00270 appurtenant to three (3) acres of land in the Boise Valley downstream from Lucky Peak Dam. Water right No. 63-00270 is described in the records of the Department as follows:

Owner:	Sylvan and/or Barbara Williamson
Source:	Boise River
Priority:	April 1, 1865
Rate of Diversion:	Six (6) cfs
Purpose of use:	Irrigation
Period of uses:	March 1 to November 15
Point of Diversion:	Lot 6 (SW1/4NE1/4) Section 22, Township 4 North, Range 1 East, Ada County, Idaho
Place of Use:	300 acres within parts of Sections 15, 16, 21 and 22, Township 4 North, Range 1 East.

4. Notice of the application was published on May 2 and 9, 2001, in the Idaho World, a newspaper printed in and of general circulation in Boise County, Idaho. The Department also gave notice of the application by posting information on the Department's homepage and by direct mailing to those requesting to be notified. Timely protests were received from the following (collectively referred to as "protestants"):

Robert and Pamella Smolczynski
Rex Lanham
Kevin Smith and/or Debra Borley
Francis and/or Shirley Mangum.

5. The protestants listed the following concerns in objecting to the approval of the application and development and use of water as proposed:

a. The proposed use will reduce the quantity of water under existing water rights.
b. The water supply is insufficient for the proposed use.
c. The proposed use will conflict with the local public interest.
d. The proposed use is contrary to the conservation of water resources within the state of Idaho.

6. The Department dismissed two of the protests. On September 21, 2001, the Department issued an order to Rex Lanham compelling discovery and conditionally dismissing Mr. Lanham's protest if he failed to respond to the discovery order on or before October 10, 2001. The hearing record indicates that Mr. Lanham did not comply with the discovery order and his protest was, therefore, dismissed. On October 11, 2001, the Department entered an order dismissing the protest of Francis and/or Shirley Mangum after the Department received a withdrawal of the protest from their attorney of record.

7. On November 6, 2001, a hearing was held at Boise, Idaho. The applicant was present and represented by attorney John Marshall. Protestants Kevin Smith, Debra

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Borley, and Pamella Smolczynski were present. The parties presented testimony, witnesses and exhibits.

8. The development proposed in the application is essentially in place. The two wells have been constructed and equipped with pumps, the residence and guest house have been constructed and occupied, an existing natural pond has been renovated and landscaping and other plantings requiring irrigation are in place. Space heating using water-to-air heat pumps has been occurring since December 1998 and the return flow from heating has been re-injected since April 1, 2001 (Applicant's Exhibit No. 3). Details of the wells constructed by the applicant are as follows:

Well No. 1 (information from Applicant's Exhibit No. 4, except as noted):

Date Constructed:	October 1997
Location on Driller's Report:	SW1/4NE1/4 Section 32, Township 5 North, Range 4 East.
Surface Casing Diameter:	6 inch
Total Depth:	263 feet
Casing Depth:	263 feet (perforated from 165 feet to 262 feet)
Seal Depth:	21 feet
Pump:	5 horsepower (hp) diverts 35 gallon per minute (gpm) (testimony of applicant)
Use:	Domestic and heating (testimony of applicant).

Well No. 2 (information from Applicant's Exhibit No. 4, except as noted):

Date Constructed:	October 1999
Location on Driller's Report:	SW1/4NE1/4 Section 32, Township 5 North, Range 4 East
Surface Casing Diameter:	8 inch
Total Depth:	338 feet
Casing Depth:	338 feet (perforated from 230 feet to 270 feet and from 290 feet to 338 feet)
Seal Depth:	18+ feet
Pumps:	5 hp and 2 hp combined divert 60 gpm (testimony of applicant)
Use:	Irrigation and storage (testimony of applicant).

9. Terry Scanlan, a consultant representing the applicant, and Roger Braun, a consultant representing protestants Francis and Shirley Mangum, conducted a study to determine the effect of pumping the applicant's 8-inch diameter well on water levels in

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other wells in the area and on the flow of Mangum Springs (Applicant's Exhibit No.7). The test included measuring water levels in wells (including those of the protestants and the flow of Mangum Springs every other day for a two-week period while the 8-inch diameter well was not pumped and for another two-week period while the 8-inch diameter well was pumped continuously at 40 gpm. The test began on July 11, 2001 and was completed on August 10, 2001. Mr. Scanlan concluded from the test and other water level information that:

a. Pumping of the Mahoney 8-inch diameter well did not affect the flow of Mangum Springs. The flow of the spring was affected by precipitation events during the test period.

b. Pumping of the Mahoney 8-inch diameter well had no discernable effect on the water level in the well owned by protestants Smolczynski.

c. Pumping of the Mahoney 8-inch diameter well had a measurable but insignificant effect on the level in the two wells owned by protestants Smith-Borley.

d. There is a hydraulic connection between the applicant's wells and some other wells in the area, including those owned by protestants Smith-Borley, but pumping of the applicant's well during the study did not have an adverse impact on the water level in the wells.

e. Construction and use of the applicant's wells has not affected ground water availability to the protestants because the water level in the wells owned by protestants Smolczynski and Smith-Borley were at or above the levels noted on the driller's reports at the time the wells were constructed.

10. The driller's report for the applicant's 8-inch diameter well indicates that water was encountered in a zone located from 56 feet to 67 feet below land surface and another zone from 74 feet to 85 feet below land surface. The driller's report indicates that the 8-inch diameter well casing extends through these zones with the bore diameter of 10-inch reducing to 8-inch. The surface seal placed in the annular space between the casing and the well bore extends only to about 18 feet below land surface. The driller's report does not confirm that water is prevented from moving down the annular space from the first two water bearing zones encountered as the well was constructed. Downward flow from these zones would not be affected by the pumping regimen used in the aquifer test because depths to water in the well were 111 feet or more throughout the test. If water is moving downward around the casing, the aquifer test did not fully assess the effect of constructing the applicant's 8-inch diameter well on water-bearing zones above the water level in the well.

11. The applicant testified that:

a. Because the wells are constructed and in use, the application is not for speculation or delay and that his financial resources are adequate to develop the project as proposed in the application.

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b. Diversion and use of water as proposed in the application is in the public interest because the local community benefits from wildlife (including deer, elk, turkeys, ducks and geese) watering from the pond and the pond is valuable as a landmark and source of water for fighting wildfire.

c. Technology is being used to conserve water. The irrigation system uses sprinklers controlled by timers and other efficient methods of application. Water-to-air heat pumps efficiently use water in heating and cooling.

12. Terry Scanlan testified that precipitation is sufficient in the area to recharge the aquifers adequately to support the uses proposed in the application. He further testified that the impact of the applicant's proposed uses to surface water sources in the area (Clear Creek and Mores Creek) would not be significant or measurable.

13. Terry Scanlan testified that the annual volume of water to be diverted under the project proposed in the application would be 28 acre feet and of that amount less than10 acre feet would be consumptively used. He further testified that the historic consumptive use under right no. 63-00270 exceeds 13.5 acre feet per year, that use of this right has never been curtailed by a priority call on the Boise River and that the right had not been forfeited.

14. Pamella Smolczynski testified that the Smolczynski's have an unrecorded right to use ground water from their well. The right was developed within the domestic exemption for use of ground water (Ref. Section 42-227, Idaho Code), and diversion and use of water does not exceed the limitations in Section 42-111, Idaho Code. The water right dates from the drilling and use of the well on October 28, 1998.

15. Pamella Smolczynski testified that she was concerned that long-term use of the applicant's wells would adversely affect water availability to her well, would conflict with the local public interest because it would reduce the flow of Clear Creek restricting recreational use and water availability for fighting wildfire on dry years such as 2001. She also testified that the proposed use will not conserve water for use in the state of Idaho because the proposed rate of water use is 80 times greater than that required for one home. She indicated that the proposed withdrawals will exceed recharge to the aquifer and may deplete ground water resources for use in the area.

16. Kevin Smith testified that the significant drawdowns measured in the applicant's wells while pumping and the significant difference in static water level existing in the applicant's 6-inch diameter well from the level measured when constructed, indicate a limited ground water resource. He is concerned that the applicant's proposed uses will, over the long-term, deplete water supplies for his use and community needs. He noted that because the pond will be full all summer, the total annual volume evaporated will be larger than estimated by the applicant. He testified that evaporation of 19,000 gallons per day by the applicant would not be in the local public interest or conserve water for use in Idaho when his home uses only 250 gallons per day.

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17. Debra Borley testified that Kevin Smith and she had developed a water right under the domestic exemption for use of ground water (Ref. Section 42-227, Idaho Code) with uses within the limitations set forth in Section 42-111, Idaho Code. She expressed similar concerns for the adequacy of the water supply and concern for injury to their water right.

CONCLUSIONS OF LAW

1. Idaho Code § 42-203A states in pertinent part:

> In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefore, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. The applicant bears the burden of proof for the factors the Department must consider under Section 42-203A, Idaho Code, but both the applicant and the protestants have the burden of coming forward with information concerning factors affecting the local public interest of which they can be expected to be more cognizant than the other parties. Rule 40.03 Water Appropriation Rules, IDAPA 37.03.08.

3. Prior appropriators of ground water shall be protected in the maintenance of reasonable pumping levels as may be established by the Director of the Department of Water Resources (Section 42-226, Idaho Code), except that holders of rights for domestic purposes from ground water with priority dates earlier than March 29, 1978 are protected in historic pumping levels (Parker v. Wallentine, 103 Idaho 506 (1982)).

4. The diversion and use of water proposed in the application will not reduce the quantity of water under existing rights when used in accordance with the conditions of approval.

5. The water supply is sufficient for the purposes proposed in the application.

6. The application is not made for purposes of speculation or delay.

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7. The applicant has the financial resources needed to complete the proposed project.

8. Diversion and use of water proposed in the application will not conflict with the local public interest when used in accordance with the conditions of approval.

9. Diversion and use of water proposed in the application will conserve water for use in the state of Idaho when used in accordance with the conditions of approval.

10. The application should be approved with conditions to protect other existing rights, the local public interest and to conserve water in the state of Idaho.

ORDER

IT IS HEREBY ORDERED that application for water right no. 63-31218 is **APPROVED** subject to the following conditions:

1. Proof of beneficial use of water in accordance with the terms of this permit shall be submitted on or before _____ (a date to be included in the permit issued when this order becomes final not to exceed 1 year after that date).

2. Measuring devices shall be installed and maintained to allow measurement of the rate and volume of diversion from each of the wells and to allow the volume of water re-injected after use for heating purposes to be measured.

3. During the permit development period, as designated in Condition No. 1, the permit holder shall measure and record the volume of water diverted under this water right each month. The permit holder shall measure and record the static depth to water (i.e., the well in which the water level is being measured has not been pumped for at least two hours immediately prior to the measurement) in the 8-inch diameter well authorized under this permit each month during the permit development period. The report of monthly water diversion volumes and depth to water shall be submitted to the Department with the proof of beneficial use or at the end of the permit development period if proof of beneficial use is filed earlier. The need to continue measuring and reporting will be addressed when a license is issued.

4. The permit holder shall provide information to satisfy the Department that 0.06 cfs appurtenant to three (3) acres under water right no. 63-00270 has been permanently acquired by the applicant to mitigate flow depletions in the Boise River below Lucky Peak Dam. The portion of water right no. 63-00270 acquired by the permit holder shall be assigned to the water bank operated by the Idaho Water Resource Board to be used solely for the purpose of mitigating water use under permit no. 63-31218.

5. Diversion and use of water under this right is subject to the control of the watermaster of Water District No. 63, Boise River.

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6. Information shall be provided to the Department to demonstrate to the satisfaction of the Director, that the wells authorized by this permit were constructed or have been reconstructed so that ground water is only diverted from water-bearing zones located at least 100 feet below land surface. The information shall be submitted on or before the date set for filing proof of beneficial use as designated in Condition No. 1. The permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

7. Water diverted for heating purposes shall be re-injected into the ground water. The permit holder shall comply with the permitting requirements of Chapter 39, Title 42, for underground injection of fluids.

8. The diversion and use of water under this permit is subject to all prior rights. Diversion and use under this right shall not reduce the quantity of water to any existing right from springs or other sources of surface water determined by the Department to be hydraulically connected to the ground water source appropriated by the permit holder. Diversion and use of water under this permit shall not reduce the pumping level of any right for domestic purposes existing on or before March 29, 1978, and shall not reduce the pumping level of any other right from ground water below a reasonable pumping level determined by the Department.

9. The priority for diversion and use of water under this permit is March 23, 2001 relative to management of water above Lucky Peak. Diversion and use under the permit shall be considered to have satisfied calls by water rights from the Boise River and tributaries below Lucky Peak Dam with priorities junior to April 1, 1865 as long as water is not used under right 63-00270 in accordance with the mitigation plan offered by the applicant.

10. Diversion and use of water under this permit is limited to 0.14 cfs, a total annual diversion volume of 28 acre feet, and a total annual consumptive use of 10 acre feet.

Dated this 30TH day of November, 2001.

Norman C. Young
Hearing Officer

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DEC 12 2002

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of ~~November~~ December, 2001, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

Jeff Fereday
Attorney at Law
P.O. Box 2720
Boise, ID 83701

Deborah J. Gibson
Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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NOV 1 2 2002

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OCT 12 2001
WATER RESOURCES
WESTERN REGION

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	))))	**ORDER DISMISSING PROTEST**

1. On September 12, 2001, Francis and Shirley Mangum, by and through their attorney of record, Charles Honsinger, filed a Withdrawal of Protest formally withdrawing the protest they filed to the Application of Permit No. 63-31218.

2. No other party to this proceeding has responded or objected to the Mangums' Withdrawal of Protest.

ORDER

IT IS HEREBY ORDERED that the protest filed by Francis and Shirley Mangum in this matter is **DISMISSED**.

Dated this 11TH day of October, 2001.

NORMAN C. YOUNG
Hearing Officer

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 12th day of October, 2001, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

Rex Lanham
2630 Highway 21
Boise, ID 83716

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

Jeff Fereday
Attorney at Law
P.O. Box 2720
Boise, ID 83701

Francis and/or Shirley Mangum
c/o Charles Honsinger
PO Box 2773
Boise ID 83701-2773

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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WATER RESOURCES
WESTERN REGION

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	**ORDER COMPELLING DISCOVERY AND CONDITIONAL ORDER DISMISSING PROTEST**

On August 23, 2001, Applicant James E. Mahoney (Mahoney) moved the Idaho Department of Water Resources (IDWR) to dismiss the protest of Rex Lanham (Lanham) because of failure to respond to discovery served on Lanham by Mahoney. Documents enclosed with the motion and in the files of IDWR establish the following facts:

1. On June 12, 2001, IDWR issued an order authorizing discovery.

2. Mahoney served interrogatories and a request for production of documents on Lanham on July 6, 2001. Responses were due on or before July 23, 2001.

3. On August 3, 2001, Mahoney, through his attorney, mailed a letter to Lanham requesting that Lanham immediately respond to the July 6, 2001 discovery requests.

The petition asserts that Lanham has not responded to the interrogatories and request for production of documents.

Rule 531 of IDWR's Rules of Procedure states that IDWR "may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery, including but not limited to the sanctions listed in paragraphs (A), (B), and (C) of Rule 37(b)(2) of the Idaho Rules of Civil Procedure."

Rule 37(b)(2)(C) provides that an order may be issued striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

Rule 531 of IDWR's Rules of Procedure states there must be a failure to comply with an order compelling discovery prior to imposing the sanctions of Rule 37(b)(2) of the Idaho Rules of Civil Procedure." Rule 37 of the Idaho Rules of Civil Procedure also discusses the sanctions described in subsection (b)(2) that can be imposed after a party does not comply with an order compelling discovery. The rules do not prohibit an automatic trigger for the sanctions, however, should the party not comply with the order.

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ORDER

IT IS HEREBY ORDERED that Protestant Rex Lanham is ordered to respond in full to the Applicant's First Set of Interrogatories and Request for Production of Documents on or before October 10, 2001. A copy of the response must be filed with IDWR at 2735 Airport Way, Boise, ID 83705.

IT IS FURTHER ORDERED that, if Protestant Rex Lanham does not respond to the Applicant's First Set of Interrogatories and Request for Production of Documents on or before October 10, 2001, the protest of Rex Lanham is **DISMISSED.**

Dated this 21st day of September, 2001.

Norman C. Young
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 21st day of September, 2001, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

Rex Lanham
2630 Highway 21
Boise, ID 83716

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

Jeff Fereday
Attorney at Law
P.O. Box 2720
Boise, ID 83701

Francis and/or Shirley Mangum
C/o Charles Honsinger
PO Box 2773
Boise ID 83701-2773

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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NOV 1 2 2002

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SEP 12 2001
WATER RESOURCES
WESTERN REGION

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

MEMORANDUM

To: Norman C. Young

From: Karl J. Dreher

RE: APPOINTMENT AS HEARING OFFICER - PROCEDURE RULE 410

Date: September 10, 2001

You are hereby appointed as hearing officer and are authorized to represent the department as provided by IDAPA Rule 37.01.01410 (Procedure Rule 410) in the following matter:

IN THE MATTER OF APPLICATION FOR PERMIT 63-31218 FILED IN THE NAME OF JAMES E. MAHONEY

Date: November 5 and 6, 2001

Time: Nov 5 - 10:00 a.m.
Nov 6 - 9:00 a.m.

Location: IDWR Conference Rooms A & B
1301 N. Orchard Street
Boise, ID 83706

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SEP 12 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	))))	**NOTICE OF RECUSAL OF HEARING OFFICER**

On July 26, 2001, Charles L. Honsinger, attorney for Francis Mangum, complained about use of ground water by James E. Mahoney. The complaint alleged that Mahoney was using water in excess of the domestic use defined in Idaho Code § 42-111, and the exemption from the filing requirement contained in Idaho Code § 42-227. John Marshall, an attorney representing Mahoney, responded to the complaint on August 1, 2001. Both of these letters were served on all of the parties.

I have a responsibility as the Regional Manager of the Western Region of the Idaho Department of Water Resources (IDWR) to investigate illegal uses of water. I assigned the investigation to Lori Graves, an employee of IDWR. Lori and I discussed possible interpretations of Idaho Code § 42-111.

Approximately the middle of September, 2001, I received a telephone call from Charles Honsinger. Mr. Honsinger told me his client's spring had dried up, and his client was attributing his loss of water to Mahoney's diversion from ground water. He asked me what I was doing to respond to his complaint. I told him the investigation had been assigned, and Lori would shortly examine the use of water. Lori scheduled an exam with James Mahoney and Terry Scanlan, a consultant hired by Mahoney. On one occasion prior to the examination, I spoke to Terry Scanlan briefly about Mr. Mahoney's use of water on the property.

On August 22, 2001, Francis Mangum visited Western Region and wanted to talk to me directly about his loss of flow from his spring. Although I knew I was assigned as a hearing officer, I felt I had a responsibility to talk to those involved in the complaint regarding illegal use of water. Mr. Mangum relayed information to me regarding his understanding of historical flows from his spring, the duration of his residence at the location, and the relationship of declines in his spring flows to Mahoney's development and diversion of water.

Lori Graves investigated the use of water by Mahoney. She briefed me regarding her findings.

I continue to receive inquiries from parties regarding further analysis and investigation.

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I consider my most recent contact with Mr. Honsinger, Mr. Scanlan, and Mr. Mangum, as ex parte communications by the hearing officer. The purpose of this document is to notify the parties of these conversations. At present I do not consider these conversations to have compromised my objectivity in this matter. Nonetheless, these conversations may compromise the confidence of the parties in the neutrality of the hearing officer. I am, therefore, withdrawing as the hearing officer. Another presiding officer will be assigned.

Enclosed is a report summarizing the examination by Lori Graves.

Dated this 5th day of September, 2001.

Gary Spackman

Gary Spackman

CERTIFICATE OF MAILING

I hereby certify that on the 5TH day of September, 2001, I mailed a true and correct copy, postage prepaid, of the Notice of Recusal of Hearing Officer to the applicant(s) and protestant(s) listed:

Sue Taylor

Sue Taylor
Senior Secretary

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

ROBERT &/OR PAMELLA
SMOLCZYNSKI
75 SETTLERS RD
BOISE ID 83716

KEVIN SMITH &/OR DEBRA BORLEY
70 SETTLERS RD
BOISE ID 83716

REX LANHAM
2630 HWY 21
BOISE ID 83716

FRANCIS &/OR SHIRLEY MANGUM
C/O CHARLES HONSINGER
PO BOX 2773
BOISE ID 83701-2773

JOHN MARSHALL
JEFFREY FEREDAY ESQ
PO BOX 2720
BOISE ID 83701

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NOV 1 2 2002

FORM 202
2:96

RECEIVED
MAR 23 2001
WATER RESOURCES
WESTERN REGION

Ident. No. 63-31218

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
OCT 22 2001
DEPARTMENT OF WATER RESOURCES

1. Name of Applicant James E. Mahoney Phone 208-342-4490
   Mailing address 53 Settlers Road, Boise, ID 83716
2. Source of water supply ground water which is a tributary of NA
3. Location of point of diversion is Township 5N Range 4E Sec. 32, in the ____ 1/4, SE 1/4, NE 1/4, Govt. Lot ____, B.M., ____ County;
   additional points of diversion if any: two wells, both in the SENE Sec. 32
4. Water will be used for the following purposes:

Amount 0.040 (cfs or acre-feet per annum)	for domestic	purposes from	1/1	to 12/31	(both dates inclusive)
Amount 0.040 (cfs or acre-feet per annum)	for heating	purposes from	1/1	to 12/31	(both dates inclusive)
Amount 0.060 (cfs or acre-feet per annum)	for irrigation	purposes from	4/1	to 10/31	(both dates inclusive)
Amount 0.140 (cfs or acre-feet per annum)	for diversion to storage	purposes from	1/1	to 12/31	(both dates inclusive)
Amount 20.0 (cfs or acre-feet per annum)	for storage for aesthetics, recreation, wildlife & fire protection	purposes from	1/1	to 12/31	(both dates inclusive)
Amount ____ (cfs or acre-feet per annum)	for ____	purposes from	____	to ____	(both dates inclusive)

5. Total quantity to be appropriated is (a) 0.140 cubic feet per second and/or (b) 20.0 acre feet per annum
6. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source two wells with submersible pumps and buried pipe to house and irrigation
   b. Height of storage dam 0 feet; active reservoir capacity 0 acre-feet; total reservoir capacity 15 acre-feet
   c. Proposed well diameter is 6 & 8 inches; proposed depth of well is 263 & 338 feet
   d. Is ground water with a temperature of greater than 85°F being sought? no
   e. If well is already drilled, when? 1997 & 99 Drilling firm SOS
   Well was drilled for (well owner) Mahoney; Drilling Permit No. D0001385 D0012412
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (*minimum 1 year*)
8. Description of proposed uses (*if irrigation only, go to item 9*):
   a. Hydropower; show total feet of head and proposed capacity in KW. ____
   b. Stockwatering; list number and kind of livestock. ____
   c. Municipal; show name of municipality. ____
   d. Domestic; show number of households. one home plus guest house
   e. Other; describe fully. heat pumps for both houses, recreation (fishing), wildlife, aesthetic, and fire protection at 3-acre natural pond

AMENDED

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9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	4E	32				2													2
		32				D,G													
		32				R,J													
		32				W													

Total number of acres to be irrigated 2

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? applicant

b. Who owns the land to be irrigated or place of use? applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Remarks: see attached remarks & mitigation plan

Water bearing zone is from ~~330 - 338'~~ 165 - 338'

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

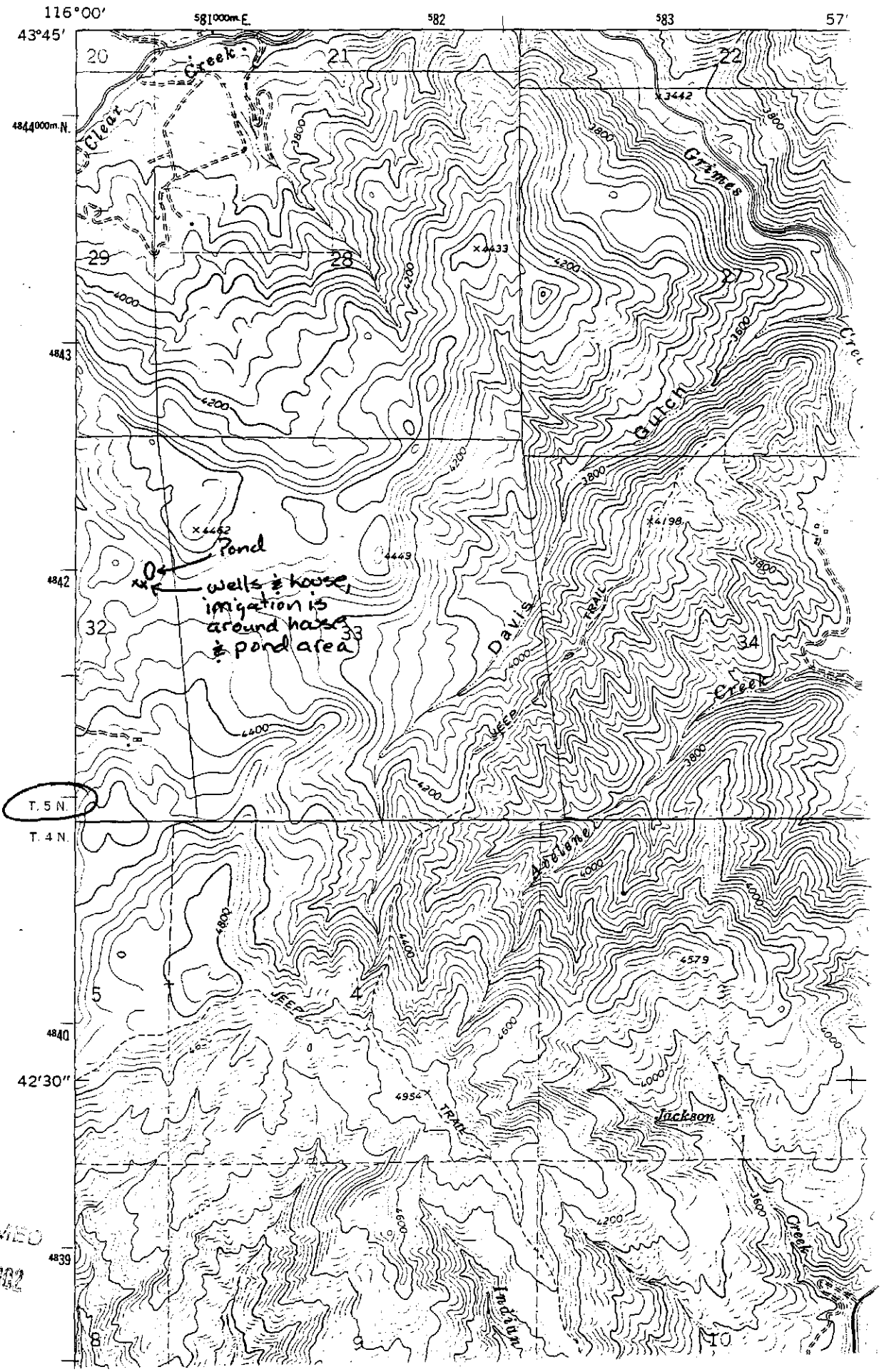
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NOV 12 2002

Jon E Mahoney
Signature of Applicant (and title, if applicable)

Received by LM Date 3-23-01 Time 4:12 pm Preliminary check by _____
Fee $ 100.00 Receipted by LM # W027487 Date 3-23-01
Publication prepared by _____ Date 5-29-01 Published in IDAHO WORLD
Publication approved _____ Date 6-7-01

27T I SE
(SHAFER BUTTE)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



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NOV 1 2 2002

PERMIT APPLICATION REMARKS AND MITIGATION PLAN

The ground water involved in this application serves a residential property containing a main house, a guest house, approximately two acres of irrigated landscaping, and a pond with an average natural size of about 1.5 acres. Water is used for heat pumps, in-home purposes, lawn and landscape irrigation, and, through pond level maintenance, recreation, wildlife, and aesthetic purposes.

Two wells are utilized on the property. A 6-inch well is used to supply the two residences for domestic purposes (culinary purposes and two heat pumps). An 8-inch well is used for landscape irrigation and pond level maintenance.

The heat pump water usage from the 6-inch well is approximately 10 acre feet annually. After passing through the heat pump, this water flows into the pond, where it helps maintain the pond level. During winter months, some of the heat pump water also could be injected back into the aquifer through the 8-inch well. Additional pond-level maintenance water, totaling an estimated 10 acre feet annually, is added from the 8-inch well. The 8-inch well also supplies water for an estimated 2 acres of landscape irrigation. Ground water diversions for landscape irrigation are estimated at 7 acre feet annually (3.5 af/ac). In-home domestic water use probably amounts to one acre foot or less annually. Thus, groundwater production is estimated at approximately 28 acre feet annually.

Of the estimated 28 acre feet of ground water annually produced, only a portion is consumptively used. Consumptive use occurs as evapotranspiration of landscape irrigation and evaporation from the pond surface; these are estimated as a combined total of less than 3 feet per acre annually. Assuming water use by 2 acres of landscape irrigation and 1.5 acres of pond surface, total consumptive use of groundwater is less than 10 acre feet annually. (For purposes of consumptive use calculations, a 1.5-acre pond surface is assumed because under pre-development conditions the pond surface seasonally fluctuated between 0 and 3 acres. Therefore, an average of 1.5 acres of pond surface was a pre-existing condition). Unconsumed water returns to the groundwater system through pond-bottom seepage, infiltration of excess irrigation water, reinjection of heat pump water, or infiltration from the septic tank drain field.

The aquifer tapped by the two wells is believed to be tributary to Clear Creek and ultimately, (via Grimes Creek and Mores Creek) the Boise River, although there is little hydrological information to confirm this. But even assuming a connection, consumptive water use under the proposed permit is anticipated to have little immediate effect on the flow in Clear Creek, Mores Creek, or the Boise River.

However, the applicant proposes to mitigate any potential impact of consumptive water use by purchasing a surface water right that is tributary to the Boise River. Subject to further hydrological data, the purchased water right would need to have an annual consumptive use of approximately 10 acre feet. The purchased

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water right will be retired as mitigation for this application.

Applicant has located a suitable surface water right and has signed a purchase and sale agreement with its owner pursuant to which Applicant is entitled to file this application seeking use of the right in a mitigation plan. The Water Right Purchase and Sale Agreement is attached to this Application, along with its exhibits which contain information about this surface water right. The surface water right is no. 63-00270, which is a decreed, 1865-priority irrigation right which currently is being used in the Eagle area. The surface water right is calculated to provide an annual diversion entitlement of 13.5 acre-feet for use on three acres. Applicant requests that the Department process this permit application as an application with a mitigation water component. If the Department deems it necessary, Applicant will submit a transfer application or other documentation to secure its permit.

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DEC 12 2002

Form No. 42-1402 (2) a 1/88 (Instr[redacted]

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number A63-00270
Date Received
Receipt Number W003463

RECEIVED
JUL 0 7 2000
WATER RESOURCES WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

AMENDED

Please type or print clearly

1. Name of Claimant (a) SYLVAN +/or BARBARA WILLIAMSON Phone (208) 939-6287
   Mailing Address 850 WILLIAMSON LN EAGLE ID 83616 Zip 83616
2. Date of Priority (Only one (1) per claim) 4/1/1865
3. Source of water supply (a) BOISE RIVER
   which is tributary to (b) SNAKE RIVER
4. a. Location of existing point of diversion is: Township 4N Range 1E Section 22,
   ____ 1/4 of SW 1/4 of NE 1/4, Govt. Lot, 6 B.M., County of ADA
   Additional points of diversion if any:
   b. If instream flow, beginning point of claimed instream flow is:
   Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of ____ 1/4,
   Govt. Lot ____ B.M., County of ____
   ending point is: Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of
   ____ 1/4, Govt. Lot ____ B.M., County of ____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. WING DAM, DITCH

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SEP 12 2002

Exhibit A

6. Water is claimed for the following purposes: (both dates are inclusive) (cfs) (acre feet)

For IRRIGATION purposes from 3/1 to 11/15 amount 6 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 6 (cfs) and/or (b) 1350 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
4N	1E	15										4	35	10					49
		16													25	5	35	35	100
		21	35	15		5													55
		22					38	38	5	15									96

Total number of acres irrigated 300

11. In which county (ies) are lands listed above as place of use located? ADA

12. Do you own the property listed above as place of use? Yes ✓ No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (✓)

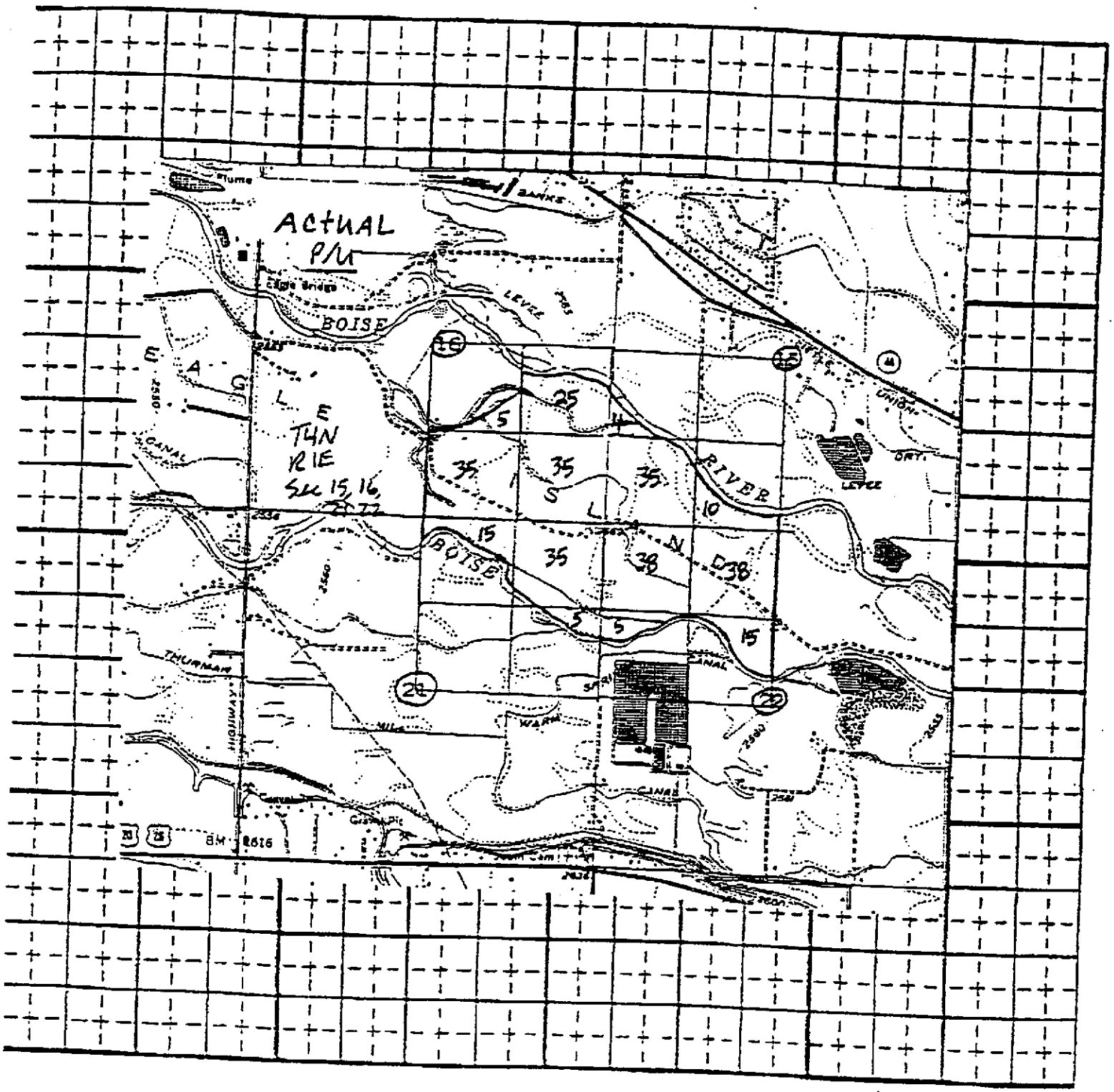
14. Remarks:
_____
_____
_____
_____
_____
_____

Last Name _____ Ident No. _____

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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name _____ Ident No. _____

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15. Basis of Claim (check one) [redacted]al Use _____ Posted Notice _____ Li[redacted]e _____ Permit _____
Decree ✓

If applicable provide IDWR Water Right Number 63-00270

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Barbara Williamson Date 7-5-2000

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ (Title)

of _____ (Organization), that I have signed the foregoing

document in the space below as _____ (Title) of _____ (Organization)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)

) SS.

County of _____)

Subscribed and sworn (or affirmed) before me this 5th day of July 2000

LORI GRAVES NOTARY PUBLIC SEAL STATE OF IDAHO

Notary Public Lori Graves

Residing at Boise

My Commission Expires 6/15/04

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

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EXHIBIT B

The three acres to be removed from irrigation as part of this water right purchase and sale shall be removed from the NE 1/4 of the NW 1/4 of Section 22, T4N, R1E. The sale of three acres of irrigation water right will reduce the irrigated area claimed under water right A63-00270 from 300 acres to 297 acres. The irrigated acres within the NE 1/4 of the NE 1/4 of section 22 claimed by A63-00270 will be reduced from 38 to 35 acres.

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WATER RIGHT PURCHASE AND SALE AGREEMENT

This Water Right Purchase and Sale Agreement ("Agreement") is made and entered into this 15th day of March, 2001, in Ada County, State of Idaho, by and between Sylvan and Barbara Williamson, husband and wife, whose address is 850 Williamson Lane, Eagle, Idaho 83616 ("Seller") and James E. Mahoney, whose address is 53 Settlers Road, Boise, Idaho 83716 ("Buyer").

Recitals

1. Seller owns water right number 63-00270, a decreed Boise River natural flow irrigation water right serving approximately 300 acres with a priority date of April 1, 1865, which is evidenced by, among other things, Snake River Basin Adjudication claim number A63-00270, a copy of which is attached as Exhibit A.

2. Buyer wishes to purchase from Seller, and Seller wishes to sell to Buyer, that portion of water right 63-00270 necessary to deliver a water flow rate of 0.06 cubic feet per second during the irrigation season and an annual diversion volume of 13.5 acre-feet for irrigation of 3 acres (such portion hereinafter referred to as the "Water Right").

Agreement Terms

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, Seller and Buyer agree as follows:

3. **Sale of the Water Right.** Seller agrees to sell the Water Right described in paragraph 2, above, to Buyer, and Buyer agrees to purchase it, pursuant to the terms of this Agreement.

4. **Transfer of Water Right in connection with Buyer's permit application.** Buyer is acquiring the Water Right to transfer or otherwise use it as mitigation in connection with a ground water permit and license sought by the Buyer for lands located in Boise County, Idaho, and more particularly described as: the SE 1/4 of the NE 1/4 of Section 32, T5N, R4E, B.M. Accordingly:

a. Within 30 days after the date of this Agreement, Buyer at his own expense shall apply for and diligently pursue authorization from the Idaho Department of Water Resources ("Department") to retire the Water Right, or to change and/or transfer the place of use, nature of use, and/or point of diversion under the Water Right, as part of Buyer's application for a permit to use ground water (the "permit application").

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b. At Buyer's request, Seller shall execute any documents pertaining to Seller's diversion, use, and/or ownership of the Water Right which Buyer deems necessary to support the permit application.

5. **Seller's obligation to cease using Water Right.** After the Department approves the permit application involving Buyer's use of the Water Right, the Water Right shall be used solely for Buyer's purposes as specified in the approved permit, transfer or other Department documentation, and Seller shall:

a. cease all diversions and uses under the Water Right; and

b. dry up and not irrigate the following parcel of irrigated land to which the Water Right was appurtenant, containing three acres, more or less, and more fully described on Exhibit B, provided, that nothing in this paragraph 5 shall prohibit Seller from transferring another valid water right for use on such parcel pursuant to law.

6. **Purchase price.** The purchase price for the Water Right is $9000.00, to be paid in two installments as follows:

a. An initial payment of $500.00, the receipt of which Buyer hereby acknowledges, as a non-refundable down payment.

b. At closing, a final payment of $8500.00 upon the Department's final approval of the permit application by recognizing Buyer as entitled to receive credit for or transfer to Buyer's use (as the case may be) a water diversion rate and an annual volume of diversions under the Water Right of not less than 0.06 cfs and 13.5 acre-feet, respectively. Buyer's obligation to make the final payment is conditioned on the provisions of paragraph 7, below.

7. **Conditions entitling Buyer to cancel contract.** If the Department denies Buyer's permit application, or if it is finally denied after appeal, Buyer may, at Buyer's sole option and discretion, either: a) cancel this Agreement or b) continue with the purchase of the water right at the full purchase price. If Buyer elects to cancel this Agreement, Buyer shall, within 30 days after such denial or unsuccessful appeal, notify Seller in writing of this election, withdraw those portions of the permit application pertaining to or relying upon the Water Right, and execute any documents necessary to confirm Seller's continued full ownership of the Water Right. Upon taking these steps, this Agreement shall be null and void, and Seller shall retain the $500 down payment.

8. **Closing.** Closing shall occur at the law offices of Givens Pursley LLP, 277 N. 6th Street, Boise, Idaho within 10 business days after the Department approves the permit application, or at such other time as the parties might mutually establish. At closing, Buyer shall pay Seller the final payment specified above in paragraph 6.b, and Seller shall deliver to Buyer a Grant Deed in the form specified on Exhibit C.

9. **Warranty.** Seller hereby warrants that the Water Right is valid and not forfeited in whole or in part; that Seller has a good and marketable title to the Water Right and the authority to sell it; that upon delivery of the deed in the form described above, Buyer will acquire a good and marketable title to the water right free and clear of liens and encumbrances, options, proxies, charges and any other adverse interests of any kind and nature; and that Seller will abide by all provisions of this Agreement after the closing and conveyance of title, including the dry-up requirement specified in paragraph 5, above. Seller further warrants that all current and past water district or other assessments on the Water Right have been paid in full by Seller and that no further assessments are due and owing as of the date of this Agreement.

10. **Reservation of actions.** Seller shall take no actions which would adversely affect the permit application or Buyer's attempts to gain approval of it or to change the point of diversion, nature, time or place of use of the Water Right in connection with the permit application. Nothing in this Agreement shall be construed so as to prohibit Seller from using, developing, selling, or filing change, transfer or other applications of his own, either individually or in concert with others, with respect to the portion of water right 63-00270 which Seller is retaining.

11. **Binding effect.** This Agreement shall be binding upon the parties hereto and their heirs, successors, administrators and assigns.

12. **Entire agreement.** The foregoing constitutes the full and complete agreement by and between these parties, and shall supersede all prior oral or written discussions or representations between them.

13. **Survival of closing.** The dry-up obligations of this Agreement shall survive the closing and the delivery of a deed of water right to Buyer.

14. **Recitals incorporated.** The above recitals are hereby incorporated as material terms of this Agreement.

15. **Attorney fees**. If either party shall fail to comply with the terms of the Agreement, the non-breaching party shall send written notice and provide a reasonable

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opportunity to cure, but not less than ten days. If the breach is not cured within the time allowed, the breaching party agrees to pay all attorney's fees and costs incurred by the non-breaching party. If suit is filed to interpret or enforce this Agreement, the unsuccessful party to such litigation agrees to pay the prevailing party all costs and expenses, including attorney's fees, incurred by the prevailing party whether incurred in district court, on appeal, or in bankruptcy court.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first set forth above.

SELLER:

Sylvan Williamson

Sylvan Williamson

Barbara Williamson

Barbara Williamson

BUYER:

James E. Mahoney

James E. Mahoney

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Acknowledgments

STATE OF IDAHO)
) ss.
County of Ada)

On this 15th day of March 2001, before me, a notary public for said state, personally appeared Sylvan Williamson, known or identified to me as the person who executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

NICHOLE LEE GOODWIN NOTARY PUBLIC STATE OF IDAHO

Nichole Lee Goodwin
Notary Public for Idaho
Residing at: Emmett
My commission expires: 7/24/06

STATE OF IDAHO)
) ss.
County of Ada)

On this 15th day of March 2001, before me, a notary public for said state, personally appeared Barbara Williamson, known or identified to me as the person who executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

NICHOLE LEE GOODWIN NOTARY PUBLIC STATE OF IDAHO

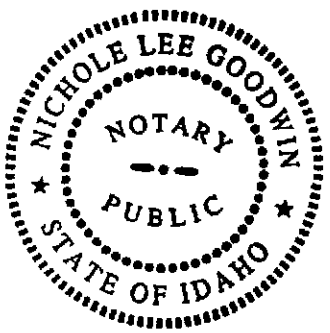
Nichole Lee Goodwin
Notary Public for Idaho
Residing at: Emmett
My commission expires: 7/24/06

STATE OF IDAHO)
) ss.
County of Ada)

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NOV 12 2002

On this 15th day of March 2001, before me, a notary public for said state, personally appeared James E. Mahoney, known or identified to me as the person who executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Nichole Lee Goodwin
Notary Public for Idaho
Residing at: Emmett
My commission expires: 7/24/06

EXHIBIT A

Water Right Claim
Snake River Basin Adjudication Claim No. A63-00270

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SEP 12 2005

EXHIBIT C

Water Right Grant Deed

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When recorded return to:

GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Attn: Jeffrey C. Fereday

WATER RIGHT GRANT DEED

FOR VALUE RECEIVED, Sylvan and Barbara Williamson, husband and wife, (collectively, "Grantor") of Eagle, Idaho, hereby grant, bargain, sell and convey unto Grantee James Ed Mahoney, whose address is 53 Settler's Road, Boise, Idaho 83716, all of Grantor's right, title and interest in and to that portion of decreed water right 63-00270 necessary to deliver a water flow rate of 0.06 cubic feet per second during the irrigation season and an annual diversion volume of 13.5 acre-feet (such portion hereinafter referred to as the "Water Right"). The Water Right heretofore has been diverted and beneficially used by Grantor, and is appurtenant to the real property located in Ada County, Idaho, more particularly described on Exhibit A attached hereto. A copy of the amended SRBA claim evidencing the Water Right is attached hereto as Exhibit B.

TO HAVE AND TO HOLD the Water Right and all of its appurtenances unto the Grantee, its successors and assigns, forever.

The Idaho Department of Water Resources shall be entitled to enter the change in ownership of the Water Right effected hereby upon its records and those of the Snake River Basin Adjudication Court, Fifth Judicial District, in the State of Idaho, in and for the County of Twin Falls, Case No. 39576.

IN WITNESS WHEREOF, the Grantor has caused the Grantor's name to be subscribed to this Grant Deed effective the ___ day of March, 2001.

GRANTOR: SYLVAN WILLIAMSON BARBARA WILLIAMSON

_____ _____

STATE OF IDAHO)
) ss.
County of Ada)

On this ____ day of _____, in the year 2001, before me, a Notary Public in and for the State of Idaho, personally appeared Sylvan and Barbara Williamson, known or identified to me to be the husband and wife who executed the above instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
Notary Public for Idaho
Residing at:
My commission expires:

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EXHIBIT A

Legal Description of Real Property to Which the Water Right is Appurtenant

Three acres within the NE 1/4 of the NW 1/4 of Section 22, Township 4 North, Range 1 East. B.M.

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EXHIBIT B

Water Right Claim

Snake River Basin Adjudication Claim No. A63-00270

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MAR 12 2002

Form No. 42-1402 (2) a 1/86 (Instructions)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number 63-00270
Date Received
Receipt Number W003463

RECEIVED
JUL 0 7 2008
WATER RESOURCES WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

AMENDED

Please type or print clearly

1. Name of Claimant (a) SYLVAN +/or BARBARA WILLIAMSON Phone (208) 939-6237
   Mailing Address 850 WILLIAMSON LN EAGLE ID 83616 Zip 83616
2. Date of Priority (Only one (1) per claim) 4/1/1965
3. Source of water supply (a) BOISE RIVER
   which is tributary to (b) SNAKE RIVER
4. a. Location of existing point of diversion is: Township 4N Range 1E Section 22,
   ____ 1/4 of SW 1/4 of NE 1/4, Govt. Lot, 6 B.M., County of ADA
   Additional points of diversion if any: ____
   b. If instream flow, beginning point of claimed instream flow is:
   Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of ____ 1/4,
   Govt. Lot ____ B.M., County of ____
   ending point is: Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of
   ____ 1/4, Govt. Lot ____ B.M., County of ____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. WING DAM, DITCH

Exhibit B

6. Water is claimed for the following [redacted]poses: (both dates are inclusive) [redacted]s) (acre feet)

For IRRIGATION purposes from 3/1 to 11/15 amount 6 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 6 (cfs) and/or (b) 1350 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
4N	1E	15										4	35	10					49
		16													25	5	35	35	100
		21	35	15		5													55
		22					38	38	5	15									96

Total number of acres irrigated 300

11. In which county (ies) are lands listed above as place of use located? ADA

12. Do you own the property listed above as place of use? Yes ✓ No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. or None (✓)
_____

14. Remarks:
_____
_____
_____
_____
_____
_____

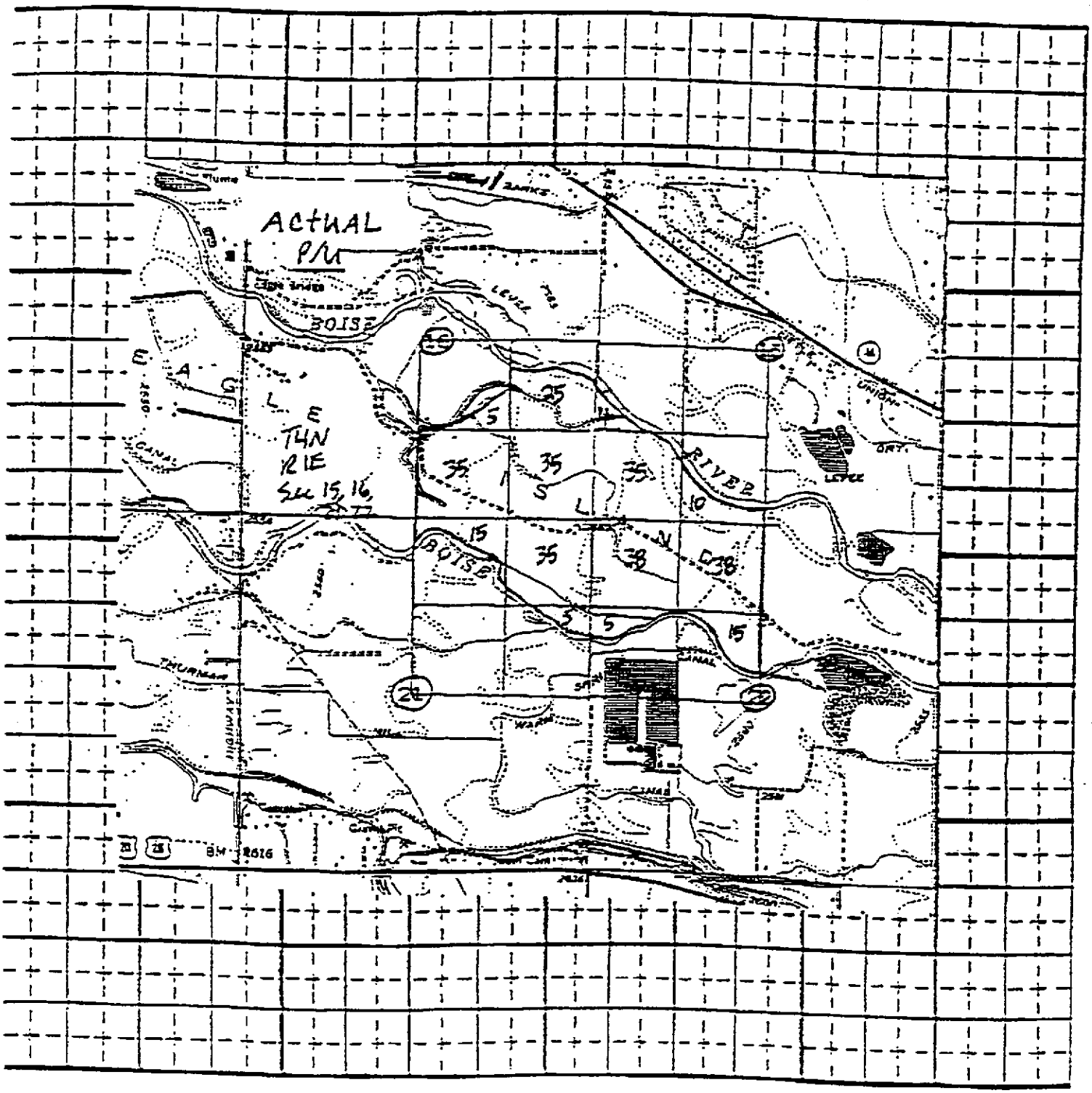
Last Name _____ Ident No. _____

[redacted]

[redacted]

Map of Project: show clearly the p[redacted]f diversion, place of use, section number, t[redacted]hip, and range number.

Scale: 2 inches equals 1 mile



Last Name _____ Ident No. _____

[redacted]

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15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree ✓
If applicable provide IDWR Water Right Number 63-00270
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.
Signature of Claimant (s) Barbara Williamson Date 7-5-2000
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ (Title)
of _____ (Organization), that I have signed the foregoing document in the space below as _____ (Title) of _____ (Organization) and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this 5th day of July 2000

LORI GRAVES NOTARY SEAL PUBLIC STATE OF IDAHO

Notary Public Lori Graves
Residing at Boise
My Commission Expires 6/15/04
Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____
Address _____
Date _____

Last Name _____ Identification Number _____

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JUL 12 2002

GIVENS PURSLEY LLP

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Direct Dial: (208) 388-1234
E-Mail: s234@givenspursley.com

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Emily MacMaster Durkee*
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Feamside
Jeffrey C. Fereday
Amanda L. Keating
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Brad V. Sneed
Virginia L. Stukel
Conley E. Ward
Robert B. White
Raymond D. Givens
James A. McClure
Stephanie C. Westermeier
OF COUNSEL
*Licensed in California only

December 18, 2001

VIA US MAIL

Idaho Department of Water Resources
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Application for Permit No. 63-31218
Our File: 5810-2

Dear Clerk:

Enclosed for filing with Hearing Officer, Norman Young, please find an original and one copy of JAMES E. MAHONEY'S MOTION FOR CLARIFICATION AND MOTION FOR RECONSIDERATION and DECLARATION OF TERRY M. SCANLAN, P.E., P.G. which were also faxed on December 17, 2001. Please acknowledge receipt of these documents by date stamping the copies and returning them to me in the enclosed, self-addressed, stamped envelope. Please call me if you have any questions.

Sincerely,

Tina N. Smith
Assistant to John M. Marshall

Enclosures
S:\CLIENTS\5810\2\Corr\2001-12-17 IDWR clerk filing.doc

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RECEIVED
DEC 17 2001

Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\clients\5810\2\JM Discovery Responses - 1st.doc

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218

DECLARATION OF TERRY M. SCANLAN, P.E., P.G.

1. I am an engineer and hydrogeologist. My credentials in these fields are part of the record in this matter.

2. Condition No. 6 of the Preliminary Order states that "Information shall be provided to the Department to demonstrate to the satisfaction of the Director, that the wells authorized by this permit were constructed or have been reconstructed so that ground water is only diverted from water-bearing zones located at least 100 feet below land surface."

3. The permit authorizes diversion from two existing wells, commonly referred to as the 6-inch well and the 8-inch well.

4. The 6-inch well (Drilling Permit Tag No. D0001385) is constructed with 6-inch well casing from +1 to 165 feet depth, and 4.5-inch PVC liner from 163 to 263 feet. The casing is unperforated and the liner is perforated from 165 to 262 feet. The Well Driller's Report indicates that the borehole was 6-inch diameter from 21 feet to 263 feet. This

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suggests that the well casing was driven below 21 feet. The casing drive shoe stops in material described as "white clay with strips of white decomposed granite" that extends from 137 to 195 feet. The Driller's Report indicates that this material is not water bearing. It is possible that the drive shoe provides a seal to prevent water from entering the well from above this point.

5. The 8-inch well (Drilling Permit Tag No. D0012412) is constructed with 8-inch casing from +2 feet to 118 feet and 6-inch steel liner from 106 feet to 338 feet. The liner is perforated from 230 to 270 feet and from 290 feet to 338 feet. The Well Driller's Report indicates that the borehole was 8-inch diameter from 74 feet to 338 feet. This suggests that the well casing was driven or pushed into the borehole below 74 feet. Installation of 8.5-inch O.D. casing within a nominal 8-inch borehole would not have provided significant annular space for movement of water into the well below the 8-inch casing from zones above 100 feet. The lower 33-feet of casing was installed into non water-bearing material described as brown clay (85-95 feet) and white clay and decomposed granite (95-127 feet).

6. This is no definitive way to prove that there is no migration of water into the 6-inch well from aquifer zones above 100 feet. The end of the well casing is covered by an overlap with the perforated liner. It is unlikely that the 4.5-inch plastic liner can be successfully extracted from the well without breaking to expose the end of the 6-inch casing. Also, even if water is flowing into the well past the 6-inch drive shoe, there is no way to determine if it is entering the annular space from above 100 feet or from between 100 feet and 165 feet. It is probable that the well would have to be abandoned and replaced or

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completely reconstructed to prove that there is no migration from shallow water bearing zones into the well.

7. Similarly, there is no definitive way to prove that there is no migration of water into the 8-inch well from aquifer zones above 100 feet. The end of the well casing is covered by an overlap with the un-perforated liner. The first perforation in the liner is found at 230 feet. Thus, water entering the first perforation might be coming from between 100 and 230 feet depth, rather than from above 100 feet. Although it might be possible to successfully extract the 6-inch liner pipe from this well (to expose the bottom of the well casing), it is more likely that the well would have to be reconstructed to prove that there is no migration of water from shallow water bearing zones into the well.

8. Downhole methods to verify a seal are unlikely to yield satisfactory results with these wells. Downhole methods might include borehole flow surveys, down-hole video survey, tracer tests, or temperature surveys. None of these methods are likely to provide irrefutable evidence to prove that there is no migration of water from above 100 feet into the well.

9. The two Mahoney wells case off more shallow water-bearing zones than many other wells in the local area.

10. I declare under penalty of perjury that the foregoing is true and correct

Executed on December 17, 2001.

Terry Scanlan, P.E., P.G.

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Certificate of Service

I hereby certify that on this 17th day of December, 2001, I caused to be served a true and correct copy of the foregoing by US Mail, and addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

John M. Marshall

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1. **Condition No. 6**

The relevant portion of condition no. 6 in the Proposed Order states as follows:

> Information shall be provided to the Department to demonstrate to the satisfaction of the Director, that the wells authorized by this permit were constructed or have been reconstructed so that ground water is only diverted from water-bearing zones located at least 100 feet below land surface.

Mahoney presumes that this condition is a non-standard condition that derives from Finding of Fact No. 10, which finds that the driller's reports for both of Mahoney's wells do not confirm that water is prevented from draining down the annular space and that the 2001 pump test designed by Terry Scanlan did not account for the wells' effects on water zones that may be draining down the wells.

After speaking with his well driller, Mahoney is convinced that the condition has already been met, in which case Mahoney would not contest the inclusion of the condition in a final order. After closely reviewing the well logs, Terry Scalan agrees that construction of the wells is such that the water bearing zones above 100 feet are likely sealed from lower zones. However, before allowing the preliminary order to become final, Mahoney seeks clarification as to whether currently available information about the construction of his wells will satisfy the Department's concerns. If the information is insufficient, then Mahoney seeks reconsideration and requests that the condition be modified to allow alternatives to satisfy the Department's concerns leading to the inclusion of condition no. 6.

The well driller of both the six-inch and eight-inch wells at issue in this matter has verbally confirmed that water-bearing zones above 100 feet were sealed from lower zones by driving the casing through clay layers below the water-bearing zones occurring above 100 feet.

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For instance, in the eight-inch well, starting at 74 feet below ground, the borehole is eight inches and is filled with an 8-½ inch outside diameter casing. This casing was driven through two clay layers beginning at 85 feet and continuing through 129 feet before reaching another water bearing zone. Driving the casing through these two layers effectively sealed the well from zones above 85 feet. The Well Driller's Report for this well is part of the record and is included as an attachment to this motion.

For the six-inch well, a six-inch borehole begins at twenty-one feet, above any water-bearing zone, and is filled with a six-inch diameter pipe through 165 feet that passes through three clay layers, effectively sealing the well. The Well Driller's Report for this well is part of the record and is included as an attachment to this motion.

Mahoney plans to have the well driller verify these facts in a written statement to meet condition no. 6. Mahoney requests that the Hearing Officer clarify whether the information summarized above would satisfy condition no. 6.

If this information is insufficient, then Mahoney request modification of the condition to permit alternatives to satisfy the concerns leading to the inclusion of the condition. As currently constructed, the overlap between the casing and the liner on both wells makes it virtually impossible to test the wells for the unlikely circumstance wherein water is draining down the borehole. It also would be extremely expensive, perhaps prohibitively so, to add a seal to the wells. This effectively would make new wells the only viable alternative unless the order is modified to state that, given the facts, this is not necessary.

2. Condition No. 2

In the Proposed Order under condition no. 3, Mahoney is required to collect measurement data and provide it to the Department during the permit development period, which is defined as

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one year from the time the order becomes final. To meet this condition, Mahoney must install flow meters near both of the wellheads and also have access to the wells to measure static water levels.

Mahoney's property is currently snowed in and will likely remain that way until this spring. It is possible that the Proposed Order will become final before the spring thaw, making it technically impossible for Mahoney to meet condition no. 3. Installing the required flow meters under these winter conditions would be extremely difficult and could possibly damage the system. Mahoney therefore requests that the Department modify condition no. 3 to allow the reporting period to begin one year from the time he is able to install the flow meters.

Conclusion

Based on the foregoing, Mahoney requests that the Department do the following:

1. Clarify what potential injury condition no. 6 is included to prevent and whether the type of information summarized above is sufficient to satisfy the condition.

2. Amend condition no. 6 to Mahoney to mitigate any injury the condition is designed to prevent.

3. Amend condition no. 2 to allow Mahoney to begin measuring and reporting water and production levels from his wells after he is able to install measuring equipment this spring.

Respectfully submitted this 14th day of December 2001.

GIVENS PURSLEY LLP

John M. Marshall

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NOV 12 2002

Certificate of Service

I hereby certify that on this 17th day of December 2001, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

John M. Marshall

MICRO...
DEC 1 2 2002

Form 238-7
3/95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp _____ Rge _____ Sec _____
_____ 1/4 _____ 1/4 _____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. __-__-__-____-____
Other IDWR No. D0012412

2. OWNER:
Name Ed Mahoney
Address 530 Settlers Rd
City Boise State ID Zip 83716

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site 53 Settlers Rd
City Boise
(Give at least name of road + Distance to Road or Landmark)
Lt. _____ Blk. _____ Sub. Name _____

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	2'	18+'	7	overbore

Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
8"	+2'	118'	.250	Steel	☒	☐	☒	☐
6"	106'	338'	.250	Steel	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method torch
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
230'	270'		200	6"	Steel	☐	☒
290'	338'		200	6"	Steel	☐	☒
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
115ft. below ground Artesian Pressure _____ lb
Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
60 GPM		280'	1 hr
40 GPM		220'	

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 56'

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia	From	To	Remarks: Lithology, Water Quality & Temp.	Water Y	Water N
10"	0'	4'	brown top soil		☒
10"	4'	6'	brown decomposed granite		☒
10"	6'	13'	brown clay		☒
10"	13'	18'	brown clay & gravel		☒
10"	18'	23'	brown gravel		☒
10"	23'	25'	boulders		☒
10"	25'	43'	brown clay & decomposed granite		☒
10"	43'	45'	brown rock		☒
10"	45'	56'	black rock		☒
10"	56'	67'	brown decomposed granite	☒	
10"	67'	74'	black rock		☒
8"	74'	85'	broken black rock	☒	
8"	85'	95'	brown clay		☒
8"	95'	127'	white clay & decomposed granite		☒
8"	127'	130'	white decomposed granite	☒	
8"	130'	146'	white clay & decomposed granite		☒
8"	146'	162'	white decomposed granite	☒	
8"	162'	191'	white clay & decomposed granite		☒
8"	191'	205'	white & brown decomposed granite	☒	
8"	205'	215'	blue clay		☒
8"	215'	255'	green & white granite		☒
8"	255'	260'	white decomposed granite	☒	
8"	260'	290'	white & brown granite		☒
8"	290'	325'	white decomposed granite	☒	
8"	325'	338'	brown & white granite		☒

Completed Depth: 340 (Measurable)
Date: Started 10-20-99 Completed 10-23-99

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official Tony Hackett Date 11/8/99
Supervisor or Operator Larry Kuiper Date 11/8/99
(Sign once if Firm Official & Operator)

Date: 10/29/99 Time: 12:50 PM

C
Exh 12-7
95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. 63 97 W 0675 000
Other IDWR No. D0001385
2. OWNER:
Name Ed Mahoney
Address 1800 Bryson
City Boise State ID Zip 83713
3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site _____
City ID City
(Give at least name of road – Distance to Road or Landmark)
Lt. 3 Blk. 4 Sub. Name Timber Mnt. Ranch
4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____
5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____
6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____
7. SEALING PROCEDURES

SEAL/FILTER PACK			AMOUNT	METHOD
Material	From	To	Sacks or Pounds	
bentonite	2	21	7	overbore

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____
8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+1	165	250	steel	☒	☐	☒	☐
4.5"	163	263	S 40	PVC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____
9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
165	262		500	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
23ft. below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
35		140	3 hrs

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 121
12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia	From	To	Remarks: Lithology, Water Quality & Temp.	Y	N
10"	0	1	brown top soil		☒
10"	1	16	hard brown clay		☒
10"	16	21	hard green clay		☒
6"	21	65	hard brown clay		☒
6"	65	75	brown decomposed granite		☒
6"	75	108	brown clay		☒
6"	108	110	green granite boulder		☒
6"	110	121	brown clay		☒
6"	121	137	white quartz sand	☒	
6"	137	195	white clay w/strips of white decomposed granite	☒	
6"	195	210	white decomposed granite		☒
6"	210	222	white decomposed granite	☒	
6"	222	225	brown clay		☒
6"	225	250	green & white granite	☒	
6"	250	255	brown & white granite	☒	
6"	255	263	brown granite		☒
			depth open to 256'		
			liner to 263'		

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NOV 0 5 1997
Department of Water Resources
RECEIVED
NOV - 3 1997
WATER RESOURCES
WESTERN REGION

Completed Depth: 256 (Measurable)
Date: Started 10/02/97 Completed 10/06/97
13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name BOS Welldrilling & Pump Co Firm No. 212
Firm Official Tony Herbst Date 10/21/97
Supervisor or Operator Dan O'Kuinghttons Date 10-20-97
(Sign once if Firm Official & Operator)

Date: 10/10/97 Time: 10:34 AM

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NOV 12 1997

FAX COVER SHEET

DATE: Wednesday, December 19, 2001

PAGES (INCLUDING COVER): 9

ORIGINAL TO FOLLOW: No

RE: Permit No. 63-31218
Client/Matter No.: 5810-2

JOHN M. MARSHALL
GIVENS PURSLEY LLP
Suite 200, Park Place
277 North Sixth Street
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1270
Fax: 208-388-1300
Email: jmm@givenspursley.com
Website: www.givenspursley.com

TO: Debbie Gibson
Company: Idaho Department of Water Resources
Phone: 327-7900
Fax: 327-7866

RECEIVED
DEC 19 2001

MESSAGE:

Debbie:

Per your request, here is another copy of JAMES E. MAHONEY'S MOTION FOR CLARIFICATION AND MOTION FOR RECONSIDERATION. I have also attached a copy of our first fax cover sheet dated December 17, 2001, showing the verification that the transmittal went through on that date. If you have any questions, please give me a call.

- John M. Marshall

If this fax does not transmit fully or is difficult to read, please contact Tina Smith at (208) 388-1234.

CONFIDENTIALITY NOTICE

This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. It is intended only for the use of the individual(s) named above. If you are not a named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the transmitted documents to us. Thank you.

S:\CLIENTS\5810\2\Fax\2001-12-19 IDWR clerk 2filing.doc

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DEC 19 2001

DEC. -17' 01(MON) 17:45 GIVENS PURSLEY LLP TEL:2083881300 P. 001

[redacted] REPORT

Transmission
Transaction(s) completed

NO.	TX [redacted]	[redacted] DESTINATION	DURATION	PGS.	RESULT	MODE
319	[redacted] 12 17:42	234#5810#1[redacted]	0° 02' 17"	008	OK	N ECM

FAX COVER SHEET

DATE: Monday, December 17, 2001

PAGES (INCLUDING COVER): 8

ORIGINAL TO FOLLOW: Yes

RE: Permit No. 63-31218
Client/Matter No.: 5810-2

JOHN M. MARSHALL
GIVENS PURSLEY LLP
Suite 200, Park Place
277 North Sixth Street
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1270
Fax: 208-388-1300
Email: jmm@givenspursley.com
Website: www.givenspursley.com

TO: Clerk
Company: Idaho Department of Water Resources
Phone: 327-7900
Fax: 327-7866

MESSAGE:

Dear Clerk:

Attached for filing please find the following document in the Matter of Application for Permit No. 63-31218:

JAMES E. MAHONEY'S MOTION FOR CLARIFICATION AND MOTION FOR RECONSIDERATION

The original document will be sent via US mail.

- John M. Marshall

MICROFILMED
DEC 17 2001

Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\client\5910\2\JM Discovery Response - 1st.doc

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218	JAMES E. MAHONEY'S MOTION FOR CLARIFICATION AND MOTION FOR RECONSIDERATION

James E. Mahoney ("Mahoney") files this Motion for Clarification and Motion for Reconsideration after reviewing the Preliminary Order issued by the Department on November 30, 2001. Mahoney seeks clarification and/or modification of condition no. 6 in the Proposed Order. Specifically, Mahoney requests that the Hearing Officer:

1) specify the injury or potential injury the condition is aimed at preventing,

2) identify specifically what types of information would satisfy the condition, and

3) amend the condition to allow Mahoney to mitigate any injury the condition is aimed at preventing.

Additionally, Mahoney seeks clarification or amendment to condition no. 3 to deal with the practicality that he cannot access his two wells to install measurement equipment or to measure static water levels until this spring because the wellheads are buried underneath several feet of snow.

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DEC 12 2001

1. **Condition No. 6**

The relevant portion of condition no. 6 in the Proposed Order states as follows:

> Information shall be provided to the Department to demonstrate to the satisfaction of the Director, that the wells authorized by this permit were constructed or have been reconstructed so that ground water is only diverted from water-bearing zones located at least 100 feet below land surface.

Mahoney presumes that this condition is a non-standard condition that derives from Finding of Fact No. 10, which finds that the driller's reports for both of Mahoney's wells do not confirm that water is prevented from draining down the annular space and that the 2001 pump test designed by Terry Scanlan did not account for the wells' effects on water zones that may be draining down the wells.

After speaking with his well driller, Mahoney is convinced that the condition has already been met, in which case Mahoney would not contest the inclusion of the condition in a final order. After closely reviewing the well logs, Terry Scalan agrees that construction of the wells is such that the water bearing zones above 100 feet are likely sealed from lower zones. However, before allowing the preliminary order to become final, Mahoney seeks clarification as to whether currently available information about the construction of his wells will satisfy the Department's concerns. If the information is insufficient, then Mahoney seeks reconsideration and requests that the condition be modified to allow alternatives to satisfy the Department's concerns leading to the inclusion of condition no. 6.

The well driller of both the six-inch and eight-inch wells at issue in this matter has verbally confirmed that water-bearing zones above 100 feet were sealed from lower zones by driving the casing through clay layers below the water-bearing zones occurring above 100 feet.

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DEC 12 2002

For instance, in the eight-inch well, starting at 74 feet below ground, the borehole is eight inches and is filled with an 8-½ inch outside diameter casing. This casing was driven through two clay layers beginning at 85 feet and continuing through 129 feet before reaching another water bearing zone. Driving the casing through these two layers effectively sealed the well from zones above 85 feet. The Well Driller's Report for this well is part of the record and is included as an attachment to this motion.

For the six-inch well, a six-inch borehole begins at twenty-one feet, above any water-bearing zone, and is filled with a six-inch diameter pipe through 165 feet that passes through three clay layers, effectively sealing the well. The Well Driller's Report for this well is part of the record and is included as an attachment to this motion.

Mahoney plans to have the well driller verify these facts in a written statement to meet condition no. 6. Mahoney requests that the Hearing Officer clarify whether the information summarized above would satisfy condition no. 6.

If this information is insufficient, then Mahoney request modification of the condition to permit alternatives to satisfy the concerns leading to the inclusion of the condition. As currently constructed, the overlap between the casing and the liner on both wells makes it virtually impossible to test the wells for the unlikely circumstance wherein water is draining down the borehole. It also would be extremely expensive, perhaps prohibitively so, to add a seal to the wells. This effectively would make new wells the only viable alternative unless the order is modified to state that, given the facts, this is not necessary.

2. Condition No. 2

In the Proposed Order under condition no. 3, Mahoney is required to collect measurement data and provide it to the Department during the permit development period, which is defined as

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DEC 19 2001

one year from the time the order becomes final. To meet this condition, Mahoney must install flow meters near both of the wellheads and also have access to the wells to measure static water levels.

Mahoney's property is currently snowed in and will likely remain that way until this spring. It is possible that the Proposed Order will become final before the spring thaw, making it technically impossible for Mahoney to meet condition no. 3. Installing the required flow meters under these winter conditions would be extremely difficult and could possibly damage the system. Mahoney therefore requests that the Department modify condition no. 3 to allow the reporting period to begin one year from the time he is able to install the flow meters.

Conclusion

Based on the foregoing, Mahoney requests that the Department do the following:

1. Clarify what potential injury condition no. 6 is included to prevent and whether the type of information summarized above is sufficient to satisfy the condition.

2. Amend condition no. 6 to Mahoney to mitigate any injury the condition is designed to prevent.

3. Amend condition no. 2 to allow Mahoney to begin measuring and reporting water and production levels from his wells after he is able to install measuring equipment this spring.

Respectfully submitted this 14 day of December 2001.

GIVENS PURSLEY LLP

John M. Marshall

MICRO
DEC 19 2001

Certificate of Service

I hereby certify that on this 19th day of December 2001, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

John M. Marshall

Form 238-7
3/95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. __ - __ - __ __ - ____
Other IDWR No. D0012412
2. OWNER:
Name Ed Mahoney
Address 530 Settlers Rd
City Boise State ID Zip 83716
3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot. ____ County Boise
Lat: : : Long: : :
Address of Well Site 53 Settlers Rd
City Boise
(Give at least name of road + Distance to Road or Landmark)
Lt. ____ Blk. ____ Sub. Name ____

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other ____
5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other ____
6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other ____
7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	2'	18+'	7	overbore

Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) ____
Was drive shoe seal tested? ☐ Y ☒ N How? ____
8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
8"	+2'	118'	.250	Steel	☒	☐	☒	☐
6"	106'	338'	.250	Steel	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe ____ Length of Tailpipe ____
9. PERFORATIONS/SCREENS
☒ Perforations Method torch
☐ Screens Screen Type ____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
230'	270'		200	6"	Steel	☐	☒
290'	338'		200	6"	Steel	☐	☒
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
115ft. below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control devices: ____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
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Water Quality test or comments: ____
Depth first Water Encountered 56'
12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temp.	Water Y	Water N
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10"	4'	6'	brown decomposed granite		☒
10"	6'	13'	brown clay		☒
10"	13'	18'	brown clay & gravel		☒
10"	18'	23'	brown gravel		☒
10"	23'	25'	boulders		☒
10"	25'	43'	brown clay & decomposed granite		☒
10"	43'	45'	brown rock		☒
10"	45'	56'	black rock		☒
10"	56'	67'	brown decomposed granite	☒	
10"	67'	74'	black rock		☒
8"	74'	85'	broken black rock	☒	
8"	85'	95'	brown clay		☒
8"	95'	127'	white clay & decomposed granite		☒
8"	127'	130'	white decomposed granite	☒	
8"	130'	146'	white clay & decomposed granite		☒
8"	146'	162'	white decomposed granite	☒	
8"	162'	191'	white clay & decomposed granite		☒
8"	191'	205'	white & brown decomposed granite	☒	
8"	205'	215'	blue clay		☒
8"	215'	255'	green & white granite		☒
8"	255'	260'	white decomposed granite	☒	
8"	260'	290'	white & brown granite		☒
8"	290'	325'	white decomposed granite	☒	
8"	325'	338'	brown & white granite		☒

Completed Depth: 340 (Measurable)
Date: Started 10-20-99 Completed 10-23-99

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official Tony Hackett Date 11/8/99
Supervisor or Operator Shane Kruse Date 11/8/99
(Sign once if Firm Official & Operator)

Date: 10/29/99 Time: 12:50 PM

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NOV 12 2002

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IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
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Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: ____ Long: ____

1. DRILLING PERMIT NO. 63-97-03-0675 000
Other IDWR No. D000113B5

2. OWNER:
Name Ed Mahoney
Address 1810 Bryson
City Boise State ID Zip 83713

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 ¼ SW ¼ NE ¼
Gov't lot _____ County Boise
Lat: ____ : ____ : ____ Long: ____ : ____ : ____
Address of Well Site _____
Nearest City JD City

Lot 2 Blk 4 Sub. Name Timber Mtn. Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
Bentonite	2	21	2	gravity

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Weight	Material	Casing	Liner	Welded	Threaded
6"	+1	165	250	steel	☒	☐	☒	☐
4.5"	163	263	S 80	PVC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
165	263		580	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
20ft below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control the flow: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield est-gpm	Drawdown	Pumping Level	Time
15		140	3 hrs

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 121

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Hole Dia.	From	To	Remarks: Geology, Water Quality & Temp.	V	N
10"	0	1	brown top soil		☒
10"	1	16	hard brown clay		☒
10"	16	21	hard green clay		☒
6"	21	65	hard brown clay		☒
6"	65	75	brown decomposed granite		☒
6"	75	110	brown clay		☒
6"	110	110	green granite boulder		☒
6"	110	121	brown clay		☒
6"	121	137	white quartz sand	☒	☐
6"	137	195	white clay w/strips of white decomposed granite	☒	☐
6"	195	210	white decomposed granite		☒
6"	210	232	white decomposed granite	☒	☐
6"	232	235	brown clay		☒
6"	235	250	green & white granite	☒	☐
6"	250	255	brown & white granite	☒	☐
6"	255	263	brown granite		☒
					☐
					☐
			dcrsh open to 256'		☐
			lower to 263'		☐
					☐
					☐
					☐
					☐
					☐

RECEIVED RECEIVED
NOV 05 1997 NOV - 3 1997
Department of Water Resources WATER RESOURCES WESTERN REGION

Completed Depth: 256 (Measurable)
Date: Started 10/02/97 Completed 10/16/97

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name 306 Wellsplitter & Pump Co. Firm No. 212
Firm Official Tony Shirtliff Date 10/21/97
Supervisor or Operator Tony Shirtliff Date 10-20-97
(Sign name if Firm Official is a partner)

Date 10/31/97 Time 10:34 AM

RECEIVED
DEC 17 2001
WATER RESOURCES
WESTERN REGION

PETITION FOR RECONSIDERATION

IN THE MATTER OF APPLICATION FOR PERMIT N0. 63-31218 IN THE NAME OF JAMES E. MAHONEY

PROTESTANTS: KEVIN D. SMITH & DEBRA A. BORLEY

1. We request reconsideration of the preliminary order in the following areas:

   A. We believe the proposed use is contrary to conservation. The applicant admitted that evaporation from the pond is an average of 19,000 gallons a day. This figure doest not include the smaller ponds, streams, fountain or irrigation and consumptive household use.. Further, the applicant stated he had no interest in conservation and would not consider a conservation plan.
   B. The testing showed a hydraulic connection between Mr. Mahoney's wells and ours. The preliminary order stated the effect on our well was "insignificant". While the drop in our static level was not large, the test was only conducted over a very limited period. We believe that continued pumping at the levels requested by the applicant over longer periods could have a serious adverse effect on our wells. For this reason, we request long term monitoring and reporting.
   C. We request a more specific definition of "reasonable pumping level" specified in paragraph #8 of the order. Such as: A drop of ten feet

Thank you for your consideration.

Kevin D. Smith & Debra A. Borley

MICROFILMED

FAX

Scanlan Engineering

600 East River Park Lane, #105
Boise, Idaho 83706

Tel: 208 383-4140
Fax: 208 383-4156

Date: **December 17, 2001**

To: Norm Young

Fax No: 327-7866

From: Terry Scanlan

Reference:

Subject: 63-31218

No. of Pages: **4**
(including cover)

If you do not receive all pages, or if there are any problems with this transmission, please call at 208 383-4140

Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\clients\5810\2\JM Discovery Responses - 1st.doc

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218	DECLARATION OF TERRY M. SCANLAN, P.E., P.G.

1. I am an engineer and hydrogeologist. My credentials in these fields are part of the record in this matter.

2. Condition No. 6 of the Preliminary Order states that "Information shall be provided to the Department to demonstrate to the satisfaction of the Director, that the wells authorized by this permit were constructed or have been reconstructed so that ground water is only diverted from water-bearing zones located at least 100 feet below land surface."

3. The permit authorizes diversion from two existing wells, commonly referred to as the 6-inch well and the 8-inch well.

4. The 6-inch well (Drilling Permit Tag No. D0001385) is constructed with 6-inch well casing from +1 to 165 feet depth, and 4.5-inch PVC liner from 163 to 263 feet. The casing is unperforated and the liner is perforated from 165 to 262 feet. The Well Driller's Report indicates that the borehole was 6-inch diameter from 21 feet to 263 feet. This

suggests that the well casing was driven below 21 feet. The casing drive shoe stops in material described as "white clay with strips of white decomposed granite" that extends from 137 to 195 feet. The Driller's Report indicates that this material is not water bearing. It is possible that the drive shoe provides a seal to prevent water from entering the well from above this point.

5. The 8-inch well (Drilling Permit Tag No. D0012412) is constructed with 8-inch casing from +2 feet to 118 feet and 6-inch steel liner from 106 feet to 338 feet. The liner is perforated from 230 to 270 feet and from 290 feet to 338 feet. The Well Driller's Report indicates that the borehole was 8-inch diameter from 74 feet to 338 feet. This suggests that the well casing was driven or pushed into the borehole below 74 feet. Installation of 8.5-inch O.D. casing within a nominal 8-inch borehole would not have provided significant annular space for movement of water into the well below the 8-inch casing from zones above 100 feet. The lower 33-feet of casing was installed into non water-bearing material described as brown clay (85-95 feet) and white clay and decomposed granite (95-127 feet).

6. This is no definitive way to prove that there is no migration of water into the 6-inch well from aquifer zones above 100 feet. The end of the well casing is covered by an overlap with the perforated liner. It is unlikely that the 4.5-inch plastic liner can be successfully extracted from the well without breaking to expose the end of the 6-inch casing. Also, even if water is flowing into the well past the 6-inch drive shoe, there is no way to determine if it is entering the annular space from above 100 feet or from between 100 feet and 165 feet. It is probable that the well would have to be abandoned and replaced or

completely reconstructed to prove that there is no migration from shallow water bearing zones into the well.

7. Similarly, there is no definitive way to prove that there is no migration of water into the 8-inch well from aquifer zones above 100 feet. The end of the well casing is covered by an overlap with the un-perforated liner. The first perforation in the liner is found at 230 feet. Thus, water entering the first perforation might be coming from between 100 and 230 feet depth, rather than from above 100 feet. Although it might be possible to successfully extract the 6-inch liner pipe from this well (to expose the bottom of the well casing), it is more likely that the well would have to be reconstructed to prove that there is no migration of water from shallow water bearing zones into the well.

8. Downhole methods to verify a seal are unlikely to yield satisfactory results with these wells. Downhole methods might include borehole flow surveys, down-hole video survey, tracer tests, or temperature surveys. None of these methods are likely to provide irrefutable evidence to prove that there is no migration of water from above 100 feet into the well.

9. The two Mahoney wells case off more shallow water-bearing zones than many other wells in the local area.

10. I declare under penalty of perjury that the foregoing is true and correct

Executed on December 17, 2001.

Terry M. Scanlan

Terry Scanlan, P.E., P.G.

Pam and Rob Smolczynski
75 Settlers Road
Boise, ID 83716

December 14, 2001

Response to Preliminary Order: Permit Application No. 63-31218
James E. Mahoney

Concerns we had with the Findings of Fact stated in the Preliminary Order are as follows:

- Impacts to Clear Creek were never studied and any reduction in flow is very contrary to local public interests (i.e. recreation, entire community's water source for fire suppression as the creek runs through the developed areas).
- The Mitigation Plan submitted with the application only addresses Boise River water right curtailment and does not address local impacts to reduced surface water flow from ground water extraction.

There are several areas within the preliminary order that need clarification. We are concerned that this order does not adequately protect our property value from future impacts caused by the exploitation of our shared ground water resource. The following is a list of concerns specific to each "Condition" imposed in the preliminary order. **We request IDWR address our concerns and obtain and assess all information prior to issuing an order that approves this proposed usage.**

Condition 1: Beneficial Use

- A permit should not be issued or a water right approved until the beneficial use justification has been satisfied. A hearing should be held after all information is gathered and disseminated to interested persons and a decision should not be made until such time that all facts have been reviewed.

Condition 2: Measuring Devices

- This condition should include a schedule and plan for reporting rates and volumes in relation to static water levels (see Condition 3). The schedule and plan should accommodate seasonal changes in use. Measurements should be taken and reported as long as the water right is exercised.

Condition 3: Monitoring and Reporting Requirements

- Monitoring static water levels should be a requirement as long as there is consumptive use occurring.
- Monitoring water levels should include wells in the area so that a correlation can be made to Mahoney pumping practices and reduced pumping levels in neighbor's wells and the cost of such should be borne by the applicant.

am and Rob Smolczynski
75 Settlers Road
Boise, ID 83716

- Water levels should also be monitored in the Mahoney six-inch well, which is also used for consumptive use, especially when the eight-inch well is the re-injection site.
- Monitoring results should be published with trend analyses monthly until trend data has accrued over several seasons, then monitoring frequency could be lessened if appropriate.

Condition 8: Reduced Pumping Levels

This Condition places the burden on the IDWR to make determinations on what "reasonable reduction in pumping levels" is for our domestic well, in addition to hydrologic connections to existing surface water rights. "Reasonable reductions in pumping levels" is not defined nor is the means the IDWR will undertake monitoring for these reductions.

Here are questions that we need answers to if IDWR is approving this project with this Condition:

1. How will our property values be protected, and how must/should we disclose this condition to future purchasers of our property to ensure our/their water right is protected?
2. What is considered a reasonable reduced pumping level?
3. Who has the burden of proof to show that reduced pumping levels is caused by this proposed licensed water usage?
4. What mitigation is there when our water right is damaged?
5. Who will pay for legal representation?
6. Has IDWR considered how this type of Condition affects the worth of our property – even before pumping levels decline?

IDWR's decision on the responsible use of ground water in a sensitive mountain aquifer will have far-reaching affects. Transferring surface water rights from an agricultural use in the Treasure Valley to a high-elevation ground water usage to maintain a 2.8 acre bentonite-sealed pond does not appear to be in keeping with the conservation of the state's ground water.

In summary, we are very concerned that our ground water right is being threatened by this IDWR action. We need reasonable assurance that this action will not cause our property value harm and is not harming the community's beneficial uses of Clear Creek.

Dated this 14th day of December, 2001.

Pamella J. Smolczynski

MICROFILMED
DEC 19 2001

FAX COVER SHEET

DATE: Monday, December 17, 2001

PAGES (INCLUDING COVER): 8

ORIGINAL TO FOLLOW: Yes

RE: Permit No. 63-31218
Client/Matter No.: 5810-2

JOHN M. MARSHALL
GIVENS PURSLEY LLP
Suite 200, Park Place
277 North Sixth Street
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1270
Fax: 208-388-1300
Email: jmm@givenspursley.com
Website: www.givenspursley.com

TO: Clerk
Company: Idaho Department of Water Resources
Phone: 327-7900
Fax: 327-7866

MESSAGE:

Dear Clerk:

Attached for filing please find the following document in the Matter of Application for Permit No. 63-31218:

JAMES E. MAHONEY'S MOTION FOR CLARIFICATION AND MOTION FOR RECONSIDERATION

The original document will be sent via US mail.

- John M. Marshall

If this fax does not transmit fully or is difficult to read, please contact Tina Smith at (208) 388-1234.

CONFIDENTIALITY NOTICE

This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. It is intended only for the use of the individual(s) named above. If you are not a named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the transmitted documents to us. Thank you.

S:\CLIENTS\5810\2\Fax\2001-12-17 IDWR clerk filing.doc

Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\clients\5810\2\JM Discovery Responses - 1st.doc

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218	JAMES E. MAHONEY'S MOTION FOR CLARIFICATION AND MOTION FOR RECONSIDERATION

James E. Mahoney ("Mahoney") files this Motion for Clarification and Motion for Reconsideration after reviewing the Preliminary Order issued by the Department on November 30, 2001. Mahoney seeks clarification and/or modification of condition no. 6 in the Proposed Order. Specifically, Mahoney requests that the Hearing Officer:

1) specify the injury or potential injury the condition is aimed at preventing,

2) identify specifically what types of information would satisfy the condition, and

3) amend the condition to allow Mahoney to mitigate any injury the condition is aimed at preventing.

Additionally, Mahoney seeks clarification or amendment to condition no. 3 to deal with the practicality that he cannot access his two wells to install measurement equipment or to measure static water levels until this spring because the wellheads are buried underneath several feet of snow.

1. **Condition No. 6**

The relevant portion of condition no. 6 in the Proposed Order states as follows:

> Information shall be provided to the Department to demonstrate to the satisfaction of the Director, that the wells authorized by this permit were constructed or have been reconstructed so that ground water is only diverted from water-bearing zones located at least 100 feet below land surface.

Mahoney presumes that this condition is a non-standard condition that derives from Finding of Fact No. 10, which finds that the driller's reports for both of Mahoney's wells do not confirm that water is prevented from draining down the annular space and that the 2001 pump test designed by Terry Scanlan did not account for the wells' effects on water zones that may be draining down the wells.

After speaking with his well driller, Mahoney is convinced that the condition has already been met, in which case Mahoney would not contest the inclusion of the condition in a final order. After closely reviewing the well logs, Terry Scalan agrees that construction of the wells is such that the water bearing zones above 100 feet are likely sealed from lower zones. However, before allowing the preliminary order to become final, Mahoney seeks clarification as to whether currently available information about the construction of his wells will satisfy the Department's concerns. If the information is insufficient, then Mahoney seeks reconsideration and requests that the condition be modified to allow alternatives to satisfy the Department's concerns leading to the inclusion of condition no. 6.

The well driller of both the six-inch and eight-inch wells at issue in this matter has verbally confirmed that water-bearing zones above 100 feet were sealed from lower zones by driving the casing through clay layers below the water-bearing zones occurring above 100 feet.

For instance, in the eight-inch well, starting at 74 feet below ground, the borehole is eight inches and is filled with an 8-½ inch outside diameter casing. This casing was driven through two clay layers beginning at 85 feet and continuing through 129 feet before reaching another water bearing zone. Driving the casing through these two layers effectively sealed the well from zones above 85 feet. The Well Driller's Report for this well is part of the record and is included as an attachment to this motion.

For the six-inch well, a six-inch borehole begins at twenty-one feet, above any water-bearing zone, and is filled with a six-inch diameter pipe through 165 feet that passes through three clay layers, effectively sealing the well. The Well Driller's Report for this well is part of the record and is included as an attachment to this motion.

Mahoney plans to have the well driller verify these facts in a written statement to meet condition no. 6. Mahoney requests that the Hearing Officer clarify whether the information summarized above would satisfy condition no. 6.

If this information is insufficient, then Mahoney request modification of the condition to permit alternatives to satisfy the concerns leading to the inclusion of the condition. As currently constructed, the overlap between the casing and the liner on both wells makes it virtually impossible to test the wells for the unlikely circumstance wherein water is draining down the borehole. It also would be extremely expensive, perhaps prohibitively so, to add a seal to the wells. This effectively would make new wells the only viable alternative unless the order is modified to state that, given the facts, this is not necessary.

2. Condition No. 2

In the Proposed Order under condition no. 3, Mahoney is required to collect measurement data and provide it to the Department during the permit development period, which is defined as

one year from the time the order becomes final. To meet this condition, Mahoney must install flow meters near both of the wellheads and also have access to the wells to measure static water levels.

Mahoney's property is currently snowed in and will likely remain that way until this spring. It is possible that the Proposed Order will become final before the spring thaw, making it technically impossible for Mahoney to meet condition no. 3. Installing the required flow meters under these winter conditions would be extremely difficult and could possibly damage the system. Mahoney therefore requests that the Department modify condition no. 3 to allow the reporting period to begin one year from the time he is able to install the flow meters.

Conclusion

Based on the foregoing, Mahoney requests that the Department do the following:

1. Clarify what potential injury condition no. 6 is included to prevent and whether the type of information summarized above is sufficient to satisfy the condition.

2. Amend condition no. 6 to Mahoney to mitigate any injury the condition is designed to prevent.

3. Amend condition no. 2 to allow Mahoney to begin measuring and reporting water and production levels from his wells after he is able to install measuring equipment this spring.

Respectfully submitted this 17th day of December 2001.

GIVENS PURSLEY LLP

John M. Marshall

Certificate of Service

I hereby certify that on this 17th day of December 2001, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

John M. Marshall

Form 238-7
3/95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. __-__-__-____-____
Other IDWR No. D0012412

2. OWNER:
Name Ed Mahoney
Address 530 Settlers Rd
City Boise State ID Zip 83716

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site 53 Settlers Rd
City Boise
(Give at least name of road or distance to road or landmark)
Lt. _____ Blk. _____ Sub. Name _____

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement cm.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	2'	18+'	7	overbore

Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
8"	+2'	118'	250	Steel	☒	☐	☒	☐
6"	106'	338'	250	Steel	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method torch
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
230'	270'		200	6"	Steel	☐	☒
290'	338'		200	6"	Steel	☐	☒
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
115ft. below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
60 GPM		280'	1 hr
40 GPM		220'	

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 56'

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temp.	Water Y	Water N
10"	0'	4'	brown top soil		☒
10"	4'	6'	brown decomposed granite		☒
10"	6'	13'	brown clay		☒
10"	13'	18'	brown clay & gravel		☒
10"	18'	23'	brown gravel		☒
10"	23'	25'	boulders		☒
10"	25'	43'	brown clay & decomposed granite		☒
10"	43'	45'	brown rock		☒
10"	45'	56'	black rock		☒
10"	56'	67'	brown decomposed granite	☒	
10"	67'	74'	black rock		☒
8"	74'	85'	broken black rock	☒	
8"	85'	95'	brown clay		☒
8"	95'	127'	white clay & decomposed granite		☒
8"	127'	130'	white decomposed granite	☒	
8"	130'	146'	white clay & decomposed granite		☒
8"	146'	162'	white decomposed granite	☒	
8"	162'	191'	white clay & decomposed granite		☒
8"	191'	205'	white & brown decomposed granite	☒	
8"	205'	215'	blue clay		☒
8"	215'	255'	green & white granite		☒
8"	255'	260'	white decomposed granite	☒	
8"	260'	290'	white & brown granite		☒
8"	290'	325'	white decomposed granite	☒	
8"	325'	338'	brown & white granite		☒

Completed Depth: 340 (Measurable)
Date: Started 10-20-99 Completed 10-23-99

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official Tony Hackett Date 11/8/99
Supervisor or Operator Steve Kuzia Date 11/8/99
(Sign once if Firm Official & Operator)

Date: 10/29/99 Time: 12:50 PM

C

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by: _____
Twp ____ Rge ____ Sec ____
____ ¼ ____ ¼ ____ ¼
Lat: : : Long: : :

1. DRILLING PERMIT NO. 63 97 W 0675 000
Other IDWR No. D0071385
2. OWNER:
Name Ed Mahoney
Address [illegible] Bryson
City Boise State ID Zip 83713
3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 ¼ SW ¼ NE ¼
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site _____
City ID City
Lot 1 Blk. 4 Sub. Name Timber Mtn. Ranch
4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____
5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____
6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____
7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	5	21	7	slurry

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____
8. CASING/LINER:

Diameter	From	To	Length	Material	Casing	Liner	Welded	Threaded
6"	+1	165	250	steel	☒	☐	☒	☐
4.5"	163	262	5+80	PVC	☐	☒	☐	☒
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____
9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
165	262		500	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
25ft below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control device: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
35		180	3 hrs

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 171
12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Hole Dia.	From	To	Material, Lithology, Water Quality & Temp.	Water Y	Water N
10"	0	1	brown top soil		☒
10"	1	16	hard brown clay		☒
10"	16	21	hard green clay		☒
6"	21	65	hard brown clay		☒
6"	65	75	brown decomposed granite		☒
6"	75	108	brown clay		☒
6"	108	110	green granite boulder		☒
6"	110	121	brown clay		☒
6"	121	137	white quartz sand	☒	
6"	137	195	white clay w/tops of white decomposed granite	☒	
6"	195	210	white decomposed granite		☒
6"	210	223	white decomposed granite	☒	
6"	223	225	brown clay		☒
6"	225	251	green & white granite	☒	
6"	251	255	brown & white granite	☒	
6"	255	263	brown granite		☒
			depth open to 250'		
			liner to 263'		

RECEIVED RECEIVED
NOV 05 1997 NOV - 3 1997
Department of Water Resources WATER RESOURCES WESTERN REGION

Completed Depth: 250 (Measurable)
Date: Started 10/17/97 Completed 10/16/97

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Wellsdrilling & Pump Co. Firm No. 212
Firm Official Tony Shevlett Date 10/21/97
Supervisor or Operator Stan C. Rigby Date 10-20-97
(Sign name of Firm Official if a partner)

Date 10/30/97 Time 11:34 AM

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

CERTIFIED MAIL



7099 3220 0005 5178 2932

Unclaimed

ROBERT & PAMELLA SMOLCZYNSKI
75 SETTLERS RD
BOISE ID 83716

DEC 24 2001

DEC - 4 2001
12-12
12-19
Not (2)4

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Robert & Pamella
Smolczynski
75 Settlers Rd
Boise, ID 83716

63-31218

4a. Article Number

7099322000055178293 2

4b. Service Type

- ☐ Registered
- ☑ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery

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8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*

X

PS Form **3811**, December 1994

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Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

December 3, 2001

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

Re: Application for Permit No. 63-31218 in the name of James E. Mahoney

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Preliminary Order** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

Please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the department or visit our homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208) 327-7953.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures
c: IDWR - Regional Office

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	))))	**PRELIMINARY ORDER**

This matter came before the Idaho Department of Water Resources ("Department") as a protested application to appropriate ground water in the Boise River Drainage. A hearing having been held, the hearing officer now enters this preliminary order:

FINDINGS OF FACT

1. James E. Mahoney ("applicant") filed application for permit No. 63-31218 ("the application") on March 23, 2001 seeking to appropriate 0.14 cubic feet per second ("cfs") of ground water for domestic, heating, irrigation and diversion to storage purposes. The application also seeks the right to store 20 acre feet per annum ("af/a") from ground water for aesthetics, recreation, wildlife and fire protection purposes.

2. The application includes the following details:

Point(s) of Diversion:	Two wells located in the SE1/4NE1/4 Section 32, Township 5 North, Range 4 East, Boise Meridian, Boise County, Idaho.	
Place of use:	All uses will occur in the SE1/4NE1/4 Section 32, Township 5 North, Range 4 East, Boise Meridian.	
Area to be Irrigated:	Two acres	
Number of Homes:	One home, plus a guest house	
Rates of Diversion:	Domestic	0.04 cfs
	Heating	0.04 cfs
	Irrigation	0.06 cfs
	Diversion to Storage:	0.14 cfs
	Storage for aesthetics, recreation (fishing), wild-life and fire protection:	20 af/a
	Total:	0.14 cfs and 20 af/a
Period of Use:	Year-round for all uses except irrigation is 4/1 to 10/31.	

3. The application includes a mitigation plan intended to prevent injury to existing rights to surface water from the Boise River. The plan offers to retire 0.06 cfs of

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water right No. 63-00270 appurtenant to three (3) acres of land in the Boise Valley downstream from Lucky Peak Dam. Water right No. 63-00270 is described in the records of the Department as follows:

Owner:	Sylvan and/or Barbara Williamson
Source:	Boise River
Priority:	April 1, 1865
Rate of Diversion:	Six (6) cfs
Purpose of use:	Irrigation
Period of uses:	March 1 to November 15
Point of Diversion:	Lot 6 (SW1/4NE1/4) Section 22, Township 4 North, Range 1 East, Ada County, Idaho
Place of Use:	300 acres within parts of Sections 15, 16, 21 and 22, Township 4 North, Range 1 East.

4. Notice of the application was published on May 2 and 9, 2001, in the Idaho World, a newspaper printed in and of general circulation in Boise County, Idaho. The Department also gave notice of the application by posting information on the Department's homepage and by direct mailing to those requesting to be notified. Timely protests were received from the following (collectively referred to as "protestants"):

Robert and Pamella Smolczynski
Rex Lanham
Kevin Smith and/or Debra Borley
Francis and/or Shirley Mangum.

5. The protestants listed the following concerns in objecting to the approval of the application and development and use of water as proposed:

a. The proposed use will reduce the quantity of water under existing water rights.
b. The water supply is insufficient for the proposed use.
c. The proposed use will conflict with the local public interest.
d. The proposed use is contrary to the conservation of water resources within the state of Idaho.

6. The Department dismissed two of the protests. On September 21, 2001, the Department issued an order to Rex Lanham compelling discovery and conditionally dismissing Mr. Lanham's protest if he failed to respond to the discovery order on or before October 10, 2001. The hearing record indicates that Mr. Lanham did not comply with the discovery order and his protest was, therefore, dismissed. On October 11, 2001, the Department entered an order dismissing the protest of Francis and/or Shirley Mangum after the Department received a withdrawal of the protest from their attorney of record.

7. On November 6, 2001, a hearing was held at Boise, Idaho. The applicant was present and represented by attorney John Marshall. Protestants Kevin Smith, Debra

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Borley, and Pamella Smolczynski were present. The parties presented testimony, witnesses and exhibits.

8. The development proposed in the application is essentially in place. The two wells have been constructed and equipped with pumps, the residence and guest house have been constructed and occupied, an existing natural pond has been renovated and landscaping and other plantings requiring irrigation are in place. Space heating using water-to-air heat pumps has been occurring since December 1998 and the return flow from heating has been re-injected since April 1, 2001 (Applicant's Exhibit No. 3). Details of the wells constructed by the applicant are as follows:

Well No. 1 (information from Applicant's Exhibit No. 4, except as noted):

Date Constructed:	October 1997
Location on Driller's Report:	SW1/4NE1/4 Section 32, Township 5 North, Range 4 East.
Surface Casing Diameter:	6 inch
Total Depth:	263 feet
Casing Depth:	263 feet (perforated from 165 feet to 262 feet)
Seal Depth:	21 feet
Pump:	5 horsepower (hp) diverts 35 gallon per minute (gpm) (testimony of applicant)
Use:	Domestic and heating (testimony of applicant).

Well No. 2 (information from Applicant's Exhibit No. 4, except as noted):

Date Constructed:	October 1999
Location on Driller's Report:	SW1/4NE1/4 Section 32, Township 5 North, Range 4 East
Surface Casing Diameter:	8 inch
Total Depth:	338 feet
Casing Depth:	338 feet (perforated from 230 feet to 270 feet and from 290 feet to 338 feet)
Seal Depth:	18+ feet
Pumps:	5 hp and 2 hp combined divert 60 gpm (testimony of applicant)
Use:	Irrigation and storage (testimony of applicant).

9. Terry Scanlan, a consultant representing the applicant, and Roger Braun, a consultant representing protestants Francis and Shirley Mangum, conducted a study to determine the effect of pumping the applicant's 8-inch diameter well on water levels in

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other wells in the area and on the flow of Mangum Springs (Applicant's Exhibit No.7). The test included measuring water levels in wells (including those of the protestants and the flow of Mangum Springs every other day for a two-week period while the 8-inch diameter well was not pumped and for another two-week period while the 8-inch diameter well was pumped continuously at 40 gpm. The test began on July 11, 2001 and was completed on August 10, 2001. Mr. Scanlan concluded from the test and other water level information that:

a. Pumping of the Mahoney 8-inch diameter well did not affect the flow of Mangum Springs. The flow of the spring was affected by precipitation events during the test period.

b. Pumping of the Mahoney 8-inch diameter well had no discernable effect on the water level in the well owned by protestants Smolczynski.

c. Pumping of the Mahoney 8-inch diameter well had a measurable but insignificant effect on the level in the two wells owned by protestants Smith-Borley.

d. There is a hydraulic connection between the applicant's wells and some other wells in the area, including those owned by protestants Smith-Borley, but pumping of the applicant's well during the study did not have an adverse impact on the water level in the wells.

e. Construction and use of the applicant's wells has not affected ground water availability to the protestants because the water level in the wells owned by protestants Smolczynski and Smith-Borley were at or above the levels noted on the driller's reports at the time the wells were constructed.

10. The driller's report for the applicant's 8-inch diameter well indicates that water was encountered in a zone located from 56 feet to 67 feet below land surface and another zone from 74 feet to 85 feet below land surface. The driller's report indicates that the 8-inch diameter well casing extends through these zones with the bore diameter of 10-inch reducing to 8-inch. The surface seal placed in the annular space between the casing and the well bore extends only to about 18 feet below land surface. The driller's report does not confirm that water is prevented from moving down the annular space from the first two water bearing zones encountered as the well was constructed. Downward flow from these zones would not be affected by the pumping regimen used in the aquifer test because depths to water in the well were 111 feet or more throughout the test. If water is moving downward around the casing, the aquifer test did not fully assess the effect of constructing the applicant's 8-inch diameter well on water-bearing zones above the water level in the well.

11. The applicant testified that:

a. Because the wells are constructed and in use, the application is not for speculation or delay and that his financial resources are adequate to develop the project as proposed in the application.

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b. Diversion and use of water as proposed in the application is in the public interest because the local community benefits from wildlife (including deer, elk, turkeys, ducks and geese) watering from the pond and the pond is valuable as a landmark and source of water for fighting wildfire.

c. Technology is being used to conserve water. The irrigation system uses sprinklers controlled by timers and other efficient methods of application. Water-to-air heat pumps efficiently use water in heating and cooling.

12. Terry Scanlan testified that precipitation is sufficient in the area to recharge the aquifers adequately to support the uses proposed in the application. He further testified that the impact of the applicant's proposed uses to surface water sources in the area (Clear Creek and Mores Creek) would not be significant or measurable.

13. Terry Scanlan testified that the annual volume of water to be diverted under the project proposed in the application would be 28 acre feet and of that amount less than10 acre feet would be consumptively used. He further testified that the historic consumptive use under right no. 63-00270 exceeds 13.5 acre feet per year, that use of this right has never been curtailed by a priority call on the Boise River and that the right had not been forfeited.

14. Pamella Smolczynski testified that the Smolczynski's have an unrecorded right to use ground water from their well. The right was developed within the domestic exemption for use of ground water (Ref. Section 42-227, Idaho Code), and diversion and use of water does not exceed the limitations in Section 42-111, Idaho Code. The water right dates from the drilling and use of the well on October 28, 1998.

15. Pamella Smolczynski testified that she was concerned that long-term use of the applicant's wells would adversely affect water availability to her well, would conflict with the local public interest because it would reduce the flow of Clear Creek restricting recreational use and water availability for fighting wildfire on dry years such as 2001. She also testified that the proposed use will not conserve water for use in the state of Idaho because the proposed rate of water use is 80 times greater than that required for one home. She indicated that the proposed withdrawals will exceed recharge to the aquifer and may deplete ground water resources for use in the area.

16. Kevin Smith testified that the significant drawdowns measured in the applicant's wells while pumping and the significant difference in static water level existing in the applicant's 6-inch diameter well from the level measured when constructed, indicate a limited ground water resource. He is concerned that the applicant's proposed uses will, over the long-term, deplete water supplies for his use and community needs. He noted that because the pond will be full all summer, the total annual volume evaporated will be larger than estimated by the applicant. He testified that evaporation of 19,000 gallons per day by the applicant would not be in the local public interest or conserve water for use in Idaho when his home uses only 250 gallons per day.

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17. Debra Borley testified that Kevin Smith and she had developed a water right under the domestic exemption for use of ground water (Ref. Section 42-227, Idaho Code) with uses within the limitations set forth in Section 42-111, Idaho Code. She expressed similar concerns for the adequacy of the water supply and concern for injury to their water right.

CONCLUSIONS OF LAW

1. Idaho Code § 42-203A states in pertinent part:

> In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefore, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. The applicant bears the burden of proof for the factors the Department must consider under Section 42-203A, Idaho Code, but both the applicant and the protestants have the burden of coming forward with information concerning factors affecting the local public interest of which they can be expected to be more cognizant than the other parties. Rule 40.03 Water Appropriation Rules, IDAPA 37.03.08.

3. Prior appropriators of ground water shall be protected in the maintenance of reasonable pumping levels as may be established by the Director of the Department of Water Resources (Section 42-226, Idaho Code), except that holders of rights for domestic purposes from ground water with priority dates earlier than March 29, 1978 are protected in historic pumping levels (Parker v. Wallentine, 103 Idaho 506 (1982)).

4. The diversion and use of water proposed in the application will not reduce the quantity of water under existing rights when used in accordance with the conditions of approval.

5. The water supply is sufficient for the purposes proposed in the application.

6. The application is not made for purposes of speculation or delay.

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7. The applicant has the financial resources needed to complete the proposed project.

8. Diversion and use of water proposed in the application will not conflict with the local public interest when used in accordance with the conditions of approval.

9. Diversion and use of water proposed in the application will conserve water for use in the state of Idaho when used in accordance with the conditions of approval.

10. The application should be approved with conditions to protect other existing rights, the local public interest and to conserve water in the state of Idaho.

ORDER

IT IS HEREBY ORDERED that application for water right no. 63-31218 is **APPROVED** subject to the following conditions:

1. Proof of beneficial use of water in accordance with the terms of this permit shall be submitted on or before _____ (a date to be included in the permit issued when this order becomes final not to exceed 1 year after that date).

2. Measuring devices shall be installed and maintained to allow measurement of the rate and volume of diversion from each of the wells and to allow the volume of water re-injected after use for heating purposes to be measured.

3. During the permit development period, as designated in Condition No. 1, the permit holder shall measure and record the volume of water diverted under this water right each month. The permit holder shall measure and record the static depth to water (i.e., the well in which the water level is being measured has not been pumped for at least two hours immediately prior to the measurement) in the 8-inch diameter well authorized under this permit each month during the permit development period. The report of monthly water diversion volumes and depth to water shall be submitted to the Department with the proof of beneficial use or at the end of the permit development period if proof of beneficial use is filed earlier. The need to continue measuring and reporting will be addressed when a license is issued.

4. The permit holder shall provide information to satisfy the Department that 0.06 cfs appurtenant to three (3) acres under water right no. 63-00270 has been permanently acquired by the applicant to mitigate flow depletions in the Boise River below Lucky Peak Dam. The portion of water right no. 63-00270 acquired by the permit holder shall be assigned to the water bank operated by the Idaho Water Resource Board to be used solely for the purpose of mitigating water use under permit no. 63-31218.

5. Diversion and use of water under this right is subject to the control of the watermaster of Water District No. 63, Boise River.

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6. Information shall be provided to the Department to demonstrate to the satisfaction of the Director, that the wells authorized by this permit were constructed or have been reconstructed so that ground water is only diverted from water-bearing zones located at least 100 feet below land surface. The information shall be submitted on or before the date set for filing proof of beneficial use as designated in Condition No. 1. The permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

7. Water diverted for heating purposes shall be re-injected into the ground water. The permit holder shall comply with the permitting requirements of Chapter 39, Title 42, for underground injection of fluids.

8. The diversion and use of water under this permit is subject to all prior rights. Diversion and use under this right shall not reduce the quantity of water to any existing right from springs or other sources of surface water determined by the Department to be hydraulically connected to the ground water source appropriated by the permit holder. Diversion and use of water under this permit shall not reduce the pumping level of any right for domestic purposes existing on or before March 29, 1978, and shall not reduce the pumping level of any other right from ground water below a reasonable pumping level determined by the Department.

9. The priority for diversion and use of water under this permit is March 23, 2001 relative to management of water above Lucky Peak. Diversion and use under the permit shall be considered to have satisfied calls by water rights from the Boise River and tributaries below Lucky Peak Dam with priorities junior to April 1, 1865 as long as water is not used under right 63-00270 in accordance with the mitigation plan offered by the applicant.

10. Diversion and use of water under this permit is limited to 0.14 cfs, a total annual diversion volume of 28 acre feet, and a total annual consumptive use of 10 acre feet.

Dated this 30TH day of November, 2001.

Norman C. Young
Hearing Officer

MORGAN

NOV 12 2002

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of ~~November~~ December, 2001, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

Jeff Fereday
Attorney at Law
P.O. Box 2720
Boise, ID 83701

Deborah J. Gibson
Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

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CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

> Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
>
> (a) the petition for reconsideration is disposed of; or
> (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

SENDER:

- Complete items 1 and/or [redacted] additional services.
- Complete items 3, 4a, a[redacted]
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "*Return Receipt Requested*" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also w[redacted]o receive the follow[redacted]rvices (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

KEVIN SMITH
DEBRA BORLEY
70 SETTLERS RD
BOISE ID 83716

63-31218

4a. Article Number

70993220000551782949

4b. Service Type

☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

12-6

5. Received By: *(Print Name)*

DEBRA A BORLEY

6. Signature: *(Addressee or Agent)*

X Debra A Borley

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811**, December 1994

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Department of Water Resources

IDAHO DEPT OF WATER
RESOURCES
ATTN DEBORAH GIBSON
1301 N ORCHARD ST
BOISE ID 83706

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DEC 12 2002

43

Gibson, Deborah

From: Gibson, Deborah
Sent: Thursday, December 06, 2001 8:38 AM
To: Pamela Smolczynski (E-mail)
Subject: Mahoney Protested Application for Permit Preliminary Order

Attached is the Preliminary Order for the Protested Mahoney Application for Permit. This was mailed/issued on December 3, 2001. You have 14 days from this date to file a request for reconsideration if you do not agree with the decision the department made.



Mahoney
Decision.doc

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Is your RETURN ADDR completed on the reverse side?

SENDER:

- Complete item[illegible]d/or 2 for additional services.
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- Print your name and address on the reverse of this form so that we can return this card to you.
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[illegible]so wish to receive the [illegible]owing services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

JEFF FEREDAY
ATTORNEY AT LAW
PO BOX 2720
BOISE ID 83701

63-31218

4a. Article Number

7099322000551782956

4b. Service Type

☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery DEC - 4 2001

5. Received By: *(Print Name)* JOSH FRATES

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*

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RESOURCES
ATTN DEBORAH GIBSON
1301 N ORCHARD ST
BOISE ID 83706

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Department of Water Resources

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December 3, 2001

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WESTERN - Gary Spackman

SALMON OFFICE - Bob Foster

SODA SPRINGS – Cindy Bird

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Legal Division - Phil Rassier

Adjudication Bureau - Dave Tuthill

Information Officer - Dick Larsen

Water Allocation Bureau - Glen Saxton

Water Distribution Section - Tim Luke / Steve Burrell / Jane Tallman / Dayna Ball

Water Permits Section - Jeff Peppersack / Shelley Keen

Administration - Norm Young

Planning - Bill Graham

One copy is routed to:

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Pam Skaggs _____

Kay Walker _____
Cynthia Clark _____
Kari Lynn Townsend _____
Vault _____

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Robert L Pamella

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	**$**

Postmark Here

Name (Please Print Clearly) (To be completed by mailer)

Sarah Cymanski

Street, Apt. No.; or PO Box No.

75 Settlers Rd.

City, State, ZIP+4

Boise Id. 83716

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Important Reminders:

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- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and

IMPORTANT: Save this receipt and present it when making inquiry.

CERTIFIED MAIL RECEIPT

Domestic Mail Only; No Insura

7099 3220 0005 5178 2949

Article Sent To:

~~Kevin~~ Kevin Smith

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	**$**

12/3/01

Postmark Here

Name (Please Print Clearly) (To be completed by mailer)

Debra Bartley

Street, Apt. No.; or PO Box No.

70 Settlers Rd

City, State, ZIP+ 4

Belle Fourche, SD 83714

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

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IMPORTANT: Save this receipt and present it when making inquiry.

CERTIFIED MAIL RECEIPT

Domestic Mail Only; No Insura

7099 3220 0005 5178 2956

Article Sent To:

Jeff Fereday

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	CROFTLIVE
Restricted Delivery Fee (Endorsement Required)	DEC 12 2001
Total Postage & Fees	**$**

12/3/01

Postmark Here

Name (Please Print Clearly) (To be completed by mailer)

Street, Apt. No.; or PO Box No.

P.O. Box 2720

City, State, ZIP+ 4

Boise, Id. 83701

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

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- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and [redacted]

IM[redacted]TANT: Save this receipt and present it when making a[redacted]quiry.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

December 3, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Re: Application for Permit No. 63-31218 in the name of James E. Mahoney

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Preliminary Order** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

Please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the department or visit our homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208) 327-7953.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures
c: IDWR - Regional Office

MICROFILMED
DEC 12 2002

Responding To Preliminary Orders Issued By The Idaho Department Of Water Resources

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

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CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

> Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
>
> (a) the petition for reconsideration is disposed of; or
> (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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NOV 1 2 2002

-ROSTER OF ATTENDANCE-

CONTINUED PREHEARING CONFERENCE
November 5-6, 2001,

IDWR CONFERENCE ROOM, BOISE IDAHO

NAME	ADDRESS	REPRESENTING
Protestants: Debbie Borley		
Kevin Smith	70 Settlers Rd.	Self
Pam Smolczynski	75 Settlers Rd.	self
Applicants: Terry Scanlan	600 E. River Park Lane #105, Boise, ID	Scanlan Engr (Mahoney)
ED MAHONEY	53 SETTLERS RD	SELF
John Marshall	277 N. 6th Street	Ed Mahoney
Norm Young	IDWR	HEARING officer
Maya Rodrigo	IDWR	Transcription Read

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Start @ 21 Mahoney Hearing - Monday, November 5th, 2001

21-78 Introduction of Hearing #63-31218

78-97 Status by John Marshall of Mr. Lanham

98-136 Cont'd Introduction

137-31290 Testimony by Ed Mahoney (Exhibit #1) (Exhibit #2) (Exhibit #3)

31291-31830 Cross Examination of Ed Mahoney by Pam Smolczynski

31831-32094 Cont'd X-Examination of Ed Mahoney by Kevin Smith

32095-32866 Question ~~Re-Direct~~ by Norm Young (Hearing Officer) of Ed Mahoney

32867-32903 Redirect of Ed Mahoney by John Marshall

32904-32925 Exhibits Presented 1, 2, 3 Admitted

32926-35084 Testimony by Jerry Scanlan (Exhibit #8)

35085-35712 Cross-Examination of Jerry Scanlan by Pam Smolczynski (Exhibit #4) (Exhibit #7)

35713-35942 Cont'd Cross Examination of Jerry Scanlan by Kevin Smith (Exhibit #2) (Exhibit #4)

35942-37326 Norm-Young - questioning Jerry Scanlan (Exhibit 4 & 2), 7 returning to

37327

37330-37414 Redirect by Kevin Smith of Jerry Scanlan

37415-37449 Admit Exh. 8-Map - Reports 4 & 7 - Admitted - John Marshall -

37500-37863 Pam Smolczynski - sworn in - Statement Exh. #10C & 10I. Offered & admitted.

37871 - ~~Cross Examin~~ Cross Exam of Pam Ley
37941 John Marshall.

37942 - Conclusion/Answers to Norm Young's
~~38197~~ add'l. questions
38223 -

38230 - Ken Smith Testimony - Exh. 201

38404 - Cross Exam - by J. Marshall of K. Smith.

38569 - Debbie Boeley - Testimony - Sworn in.

38691 - ~~[redacted]~~

38692 - Norm Young questioning D. Boeley - & K. Smith
38895

38857 - Cross Exam. of K. Smith & D. Boeley by
38899 John Marshall

38900 - Closing Statement by John Marshall -
39070

39084 - Pam Closing Statement
39100 - Ken Smith. "
39145 -

39146 - Norm Closes
39226

.24 / 12 = .02

.02 x 3 = .06

.06 x 325850 = 19551

.17 / 12 = .014

.014 x 3 = .0425

.0425 x 325850 = 13,846.625

2000 Standards

(.24) 1(10) = .02[redacted] FT.

.024 X 3 = .072

.072 X 325,850 = 23461.20 Gallons Per Day

1992 Estimate

.17 / 10 = .017

.017 X 3 = .051

.051 X 325,850 = 16,618 Gallons Per Day

5/18/01 IDWR - ½

5/25/01 Mahoney 3.5 ac min

6/13/01 IDWR - ½

8/28/01 Terry
1.5 ac min
2.3 ac pond surface

388-1200
1300

issue is not one that
IDWR

Ed is diverting less
13000 GPD

irrigating no more than
½ ac

shut Mahoney off for
2 weeks - no change
in Mahonegan Magnum
spring

Issue of the Pond in
letter can be

2 acres

want up to 3.5 ?

.6 of for in house use

feed pond with heat pump or all closed loop?

heat pump used for cooling?

Filling Pond ?

Pond lined ?

42-111 - 13000 for D+S and others cannot to exceed ½ in any Pond including 3,000

No junk/irrigation in statute - only refers to actual irrigation

Order

Can issue for Mean Depth but cannot require reporting this year

look for what's nec-
-essary for swap laws

unless

Interp of 42 III =
no swap > ½ mi
within statute



same level
same size

evaporation loss

Dom exemption for a pond

Per Dep attorney general - interpret statute as written

Need evap on hottest day of yr + other uses - allow 1 acre in pond size (i.e. evap)

allow 1/2 as unless shown otherwise

Roger Braun - hydrogeologist
mid summer day - 1/2" evap from pond @ that altitude

left out evaporation loss - in analysis computation

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NOV 12 2002

.11 x 2 = .8 as inches/day

FILE NUMBER ----------
REVIEWER ----------
DATE ----------

MAXIMUM DAILY WATER USE FOR DOMESTIC PURPOSES

INPUTS		NOTES/SUGGESTED VALUES	RESULTS		FORMULAS
IN-HOUSE USE (AFY)	0.6	IF UNKNOWN, USE IDWR STANDARD OF 0.6 AF FOR EACH HOUSE	TOTAL IN-HOUSE USE	536 GPD	CONVERSION: 1 AFY = 892.74 GPD 1 AF = 325,850 G
LAWN AND GARDEN IRRIGATION					
ACRES IRRIGATED (AC)	0.5	CANNOT EXCEED 1/2 ACRE FOR PART A DOMESTIC*			
ETpk80 (IN/DAY)	0.4 .37	IF UNKNOWN, USE REFERENCE ETpk80 FOR TURF EXAMPLE 0.40 IN/DAY FOR HAGERMAN EXAMPLE 0.30 IN/DAY FOR STANLEY			
APPLICATION EFF. (%)	70%	IF UNKNOWN, USE 70% FOR SPRINKLERS			
			TOTAL LAWN AND GARDEN IRRIGATION	7176 7758 GPD	FORMULA: ((ETpk80/EFF.) * IRRIG. AREA) = GPD CONVERSION: ETpk80 = IN/DAY * FT/12IN = ACRE-FT/DAY PER ACRE 1 AF = 325,850 G
POND					
SURFACE AREA (SQFT)	10890	1.5 2			
AVERAGE DEPTH (FT)	3.00		CAPACITY	32670 CUFT 244372 G	FORMULA: SURFACE AREA * AVERAGE DEPTH = CAPACITY CONVERSION: 1 CUFT = 7.48 G
FILL OR REFILL RATE (CFS)	0.04	USE 0 IF FILLED NATURALLY FROM GW TOTAL DOMESTIC RATE CANNOT EXCEED 0.04 CFS FOR PART B DOMESTIC*	CONVERT TO GPD	25851 GPD	NOTE: GPD LIMITED BY POND CAPACITY CONVERSION: 1 CFS = 646,272 GPD
			REFERENCE EXAMPLE: ESTIMATED NUMBER OF DAYS TO FILL BASED ON PROVIDED INPUTS	*9.45 DAYS* *227 HR*	*FORMULA: CAPACITY / FILL RATE = TIME TO FILL*
EVAPORATION (IN/DAY)	0.4 .17	.37 IF UNKNOWN, USE REFERENCE ETpk80 FROM ABOVE	CONVERT TO GPD	2715 GPD	FORMULA: EVAP * SURFACE AREA = POND EVAP CONVERSION: ETpk80 = IN/DAY * FT/12IN = ACRE-FT/DAY PER ACRE 1 AF = 325,850 G NOTE: ASSUMES CONTINUOUS REPLACEMENT RATE
SEEPAGE RATE (FT/DAY)	0.00	SUGGESTED VALUES FOR DIFFERENT SOIL TYPES: 0 = NATURALLY FILLED FROM GW, OR LINED 0.5 = CLAY SOILS 1.5 = LOAMS 3.0 = GRAVELS	CONVERT TO GPD	0 GPD	FORMULA: SA * SEEPAGE LOSS = POND SEEPAGE (CUFT/D) CONVERSION: 1 CUFT = 7.48 G NOTE: ASSUMES CONTINUOUS REPLACEMENT RATE
FLOW-THROUGH (CFS) (REFRESH RATE)	0.04	TOTAL DOMESTIC RATE CANNOT EXCEED 0.04 CFS FOR PART B DOMESTIC*	CONVERT TO GPD	0 GPD	FORMULA: IF FILL RATE = 0 THEN GPD IS BASED ON CONTINUOUS FLOW IF FILL TIME > ONE DAY THEN GPD = 0 IF FILL TIME < ONE DAY THEN GPD = (24 HR - FILL TIME) * FLOW THROUGH RATE CONVERSION: 1 CFS = 646,272 GPD
			REFERENCE EXAMPLE: ESTIMATED NUMBER OF DAYS TO REFRESH BASED ON PROVIDED INPUTS	*9.45 DAYS* *227 HR*	*FORMULA: CAPACITY / FLOW RATE = REFRESH TIME*
			TOTAL POND	32735 28566 GPD	35083 39700 TOTAL = FILL RATE + EVAP + SEEPAGE + FLOW THROUGH
OTHER (GPD)	0.00	STOCKWATER, SMALL BUSINESS USE, ETC. EITHER FROM POND OR SEPARATE USE	TOTAL OTHER	0 GPD 40487	
			TOTAL WATER USE	36860 GPD	TOTAL = IN-HOUSE USE + IRR + POND + OTHER

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NOV 12 2002

* NOTE: MAXIMUM VOLUME FOR EXEMPTION = 13,000 GPD FOR PART A DOMESTIC
MAXIMUM VOLUME FOR EXEMPTION = 2,500 GPD FOR PART B DOMESTIC

Form No. 202a.
January 2001

Comment letters – see pg 2

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: LG DATE: 4/24/01 APPLICATION: 63-31218

REQUIRED INFORMATION

- ✓ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
- ✓ Address:
- ✓ Source: (See USGS Quad for names of water sources)
- ✓ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ___ County:
- ✓ Quantity: (flow and/or volume)
- ✓ Period of use: 3/15 - 11/15
- ✓ Nature of proposed use: (Include description of use)
- ✓ Description of diverting works:
- ✓ Time required for beneficial use of water:
- ✓ Place of use or acres irrigated:
- ✓ Map: (show T, R, S, QQ &/or QQQ)
- N/A Subdivision plat: (for > 1 home in restricted area. ≥ 5 homes in non-restricted area)
- ✓ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
- ✓ Correct fee paid

RECEIVED
OCT 22 2001
DEPARTMENT OF WATER RESOURCES

Gov't. Lots:
- ✓ P/D
- ✓ P/U

✓ ADVERTISE REMARK(S)
(Reviewer identify which remarks)

ADDITIONAL INFORMATION

YES	NO	
___	✓	Overlapping place of use: (Describe source & relationship to present application on next page.)
___	✓	Overlapping point of diversion.
___	✓	Critical groundwater area:
___	✓	Groundwater management area:
✓	___	1992 moratorium: mitigation proposed
___	✓	Surface water source, IDFG letter needed.
___	✓	Protected river or minimum flow reach, notify water planning bureau.
___	✓	E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining).
___	✓	E-mail to Dam Safety staff: (for any storage)
✓	___	Mitigation plan: Check any that apply.
		✓ immediate = acceptable plan required and submitted.
		___ future = open areas, acceptance of condition of approval is in file.
___	✓	Send power requirement letter &/or fish farm requirement letter.
___	✓	Power residency affidavit:
___	✓	Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
___	✓	*REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

Date Requested _____ Date Response Received _____

PROCESSING APP. NO. [redacted]-31219

YES	NO	
✓		In form for advertising:
	✓	Statewide advertising: (>10 cfs &/or 1000 af)
✓		Fee amount, receipt number and date recorded on application:

SEND COPIES TO: NOTE IF E-MAIL COMMENT LETTER USED.

YES	NO		YES	NO	
	✓	I.D. Health & Welfare		✓	U.S. BLM
	✓	I.D. District Health		✓	U.S. Forest Service
	✓	I.D. Fish & Game	✓		Water Dist. # 63
	✓	I.D. Lands		✓	Water Planning Bureau
			✓		Other

1. ROB + PAM SMOLCZYNSKI
   75 SETTLERS RD
   ID CITY 83631
2. FRANCIS MANGUM
   17 OLD MILL RD
   BOISE ID 83716

FINAL REGIONAL PROCESSING REVIEW:

YES	NO	
✓		Affidavit of publication received:
✓		Application published correctly: If not, record action taken.
✓		Publication dates and paper recorded on application:
		Final date for protest 5-21-01
	✓	Protests received.
		Recommendations attached:
		Measuring device required:
		Water delivered by water master? District #
		Special conditions of approval or cover letter:
		See below for additonal information

Recommended Date or Priority _____

Recommended by: _____ Date: _____

ADDITIONAL INFORMATION:

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

FAX TRANSMITTAL COVER SHEET

FAX NUMBER (208) 334-2348

DATE: 10-18-01

TO: John Marshall **FROM:** Western Region

DOCUMENT DESCRIPTION/NOTES: Order

TOTAL PAGES SENT: 2 **+ COVER SHEET**

CONTACT: Sue T.

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NOV 1 2 2002

RECEIVED
SEP 12 2001
Department of Water Resources

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Francis and Shirley Mangum

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR WATER RIGHT NUMBER 63-31218 IN THE NAME OF JAMES E. MAHONEY	WITHDRAWAL OF PROTEST

COMES NOW, Francis and Shirley Mangum ("Mangum") by and through their attorneys, Ringert Clark, Chartered, and hereby withdraw their protest to the Application for Permit No. 63-31218 to appropriate the public waters of the State of Idaho filed by James E. Mahoney.

Respectfully submitted this 12th day of September, 2001.

RINGERT CLARK, CHARTERED

Charles L. Honsinger
Attorney for Francis and Shirley Mangum

MICROFILMED
NOV 12 2002
COPY

CERTIFICATE OF SERVICE

I certify that on the 12th day of September, 2001, I mailed the original and copies of this document, including all attachments to the following:

Jeffrey C. Fereday
John Marshall
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701
FAX: (208) 388-1201

Director
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

Rex Latham
2630 Highway 21
Boise, Idaho 83716

Kevin Smith and Debra Borley
70 Settlers Road
Idaho City, Idaho 83601

Robert and Pamella Smolczynski
75 Settlers Road
Idaho City, Idaho 83601

RINGERT CLARK CHARTERED

by: _____
CHARLES L. HONSINGER

MICROFILMED
NOV 1 2 2002

September 3,2001

Mr. Gary Spackman
Department Of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

RECEIVED
SEP 0 5 2001
WATER RESOURCES
WESTERN REGION

Dear Sir,

Please regard this letter as a formal complaint regarding the water situation along the south fork of Clear Creek, Boise County.

Having been raised on the property where we reside, I can say that the water levels, even in previous drought years, has never been so drastically effected. This became quite noticeable in July of 2000, after Mr. Ed Mahoney on Settlers Dr. in Timber Mountain Ranch Subdivision, put to use 2 deep wells, earlier in the spring of that year.

It has also come to our attention that he has deepened and enlarged a shallow depression in the ground that in years past was filled only with run off water. As long as I can remember, it was always completely dry by July. This occurred even during wet years, because there was no natural source to replenish the water in summer. After extensive excavation, which we saw in progress, the enlarged pond now stays full year round, because of water being pumped from wells to maintain its level.

We feel this much pumping has caused the large spring that feeds the south fork of Clear Creek to decrease its flow almost entirely. Even in the 7year drought period, it was never this low. This decrease in the creek flow is a big concern for us because it is the only source of water for emergency use, such as forest fire, and we lose our electricity, that runs our domestic well pump. We have a gas powered pump that we can pump from the creek to wet around the perimeter of our home. We also use this pump from the creek to water our lawn and garden.

We understand that Mr. Mahoney enjoys having a scenic pond and yard, but we would like to have the right to have a nice yard and garden too. Since Mr. Mahoney has been using his 2 wells, our domestic well has stopped flowing artesian.

We feel we have prior water rights to the water because of the 1900 water rights filed by my great grandfather for use on the homestead, and we are using the water for the use it was designated for.

Therefore, we are against Mr. Mahoney receiving more water rights for the beautification of his property at the cost of everyone downstream from him. We are retired, living on a fixed income and are concerned about being able to continue living on our property, or the ability to sell if we no longer have water.

We trust you will give our situation here, due consideration. Thank you.

Respectfully,

Allen R. Cupit
Diana Cupit
95 Old Mill Rd
Boise Id 83716
392-9969

MICROFILMED
NOV 1 2 2002

MEMORANDUM

DATE: 8/22/01

FROM: Lori Graves

TO: Gary Spackman

RE: Ed Mahoney Ground Water Use

On Wednesday, August 22, 2001, I investigated Ed Mahoney's ground water use at his home in response to Francis Mangum's complaint.

Mr. Mahoney's sprinkler system consists of 12 stations that are programmable and station no. 13 that has to be operated manually. Mr. Mahoney stated that he is currently operating stations 6 through 10 and station 12 after receiving my letter that indicated he was limited to 13,000 gpd of ground water use and irrigation of ½ acre or less. Mr. Mahoney's sprinkler control box for stations 1 through 12 indicated that stations 1 through 5 and station 11 were programmed in the off position or inactive, and stations 6 through 10 and 12 were on or active.

I then had Mr. Mahoney turn on each station to determine what area could be irrigated. The soil that the inactive stations irrigated was definitely dry and cracked, but the vegetation still appeared green, probably due to shallow ground water. The inactive area included the West side of the pond, an area around the 8" well location East of the home and an area Southeast of the home. The active stations irrigated the area immediately surrounding the home. The vegetation was green and the soil was moist. After turning each station on and determining the area irrigated, I used a survey wheel and measured **.56 acre** around the home that stations 6 through 10 irrigated. Station 12 is used to supplement the water amenity that runs through Mr. Mahoney's landscaping, which can overflow into the large pond.

The water amenity consists of a small stream that feeds a small pond, in which a sump pump is used to re-circulate the water through a 2" pvc. Overflow from the small pond is tributary to the large pond.

The 6" well provides water to the home for domestic and heat pump use. The 8" well provides primary water to the sprinkler system and supplemental water to the water amenity and large pond. The 8" well is also used as a re-injection well for the heat pump water. Identical 5 hp pumps are used in both wells. The 8" well also contains a 2 hp pump, which is not operated.

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Stations 6 through 10 each run 20 minutes/day at 27 psi. Station 12 operates 3 hrs/day at 12 psi to supplement the water amenity and the pond. A timed-fill bucket test measured open discharge flow from the 5 hp pump in the 8" well at 43 gpm. The pump curve for the 5 hp pump indicated pumping capacity at 40 gpm using 250' lift and 27 psi. From this information,

40 gpm x 100 minutes = 4000 gal/dy (Stations 6-10)
43 gpm x 180 minutes = 7740 gal/dy (Station 12)
11740 gal/dy

Mr. Mahoney stated that he and his wife use 300 gal/day for internal domestic use and the heat pump operates 1 hr/day at 9 gpm. Based on this information,

11740 gpd + 300 gpd + 540 gpd = **12580 gpd total ground water use**

Besides ground water, the large pond receives an unspecified amount of spring flow and/or shallow ground water. Mr. Mahoney installed French drains around his home to keep shallow ground water out of his foundation. At the time of the investigation, discharge from the drains was apparent, as well as water in a spring draw Northeast of the home. Both these sources were tributary to the large pond. Mr. Mahoney also stated that he was unable to fully drain the pond when applying bentonite due to high water table on the East side of the pond towards the center. As a result, the pond is only partially sealed, enabling it to continue to receive sub-water. Mr. Mahoney provided the attached photo of the partially drained pond, indicating the area he was unable to seal. The large pond's surface area is ~2.8 acres.

On Thursday, August 30, 2001, I re-visited the site in response to Francis Mangum's inquiry about ground water from the 8" well being open discharged via pvc pipe into the large pond. A white pvc pipe did emerge at the head of the Northeast spring draw mentioned above and appeared to directly discharge water from the 8" well into the spring draw, which then flowed into the large pond. Water was not flowing from the pvc pipe at the time of the investigation. When questioned about the pvc pipe, Mr. Mahoney supplied the attached explanation and stated that he would immediately and permanently cap the pvc pipe to avoid future misunderstandings.

In summary, apparent violation of I.C. § 42-111 was not found during either investigation.

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Graves, Lori

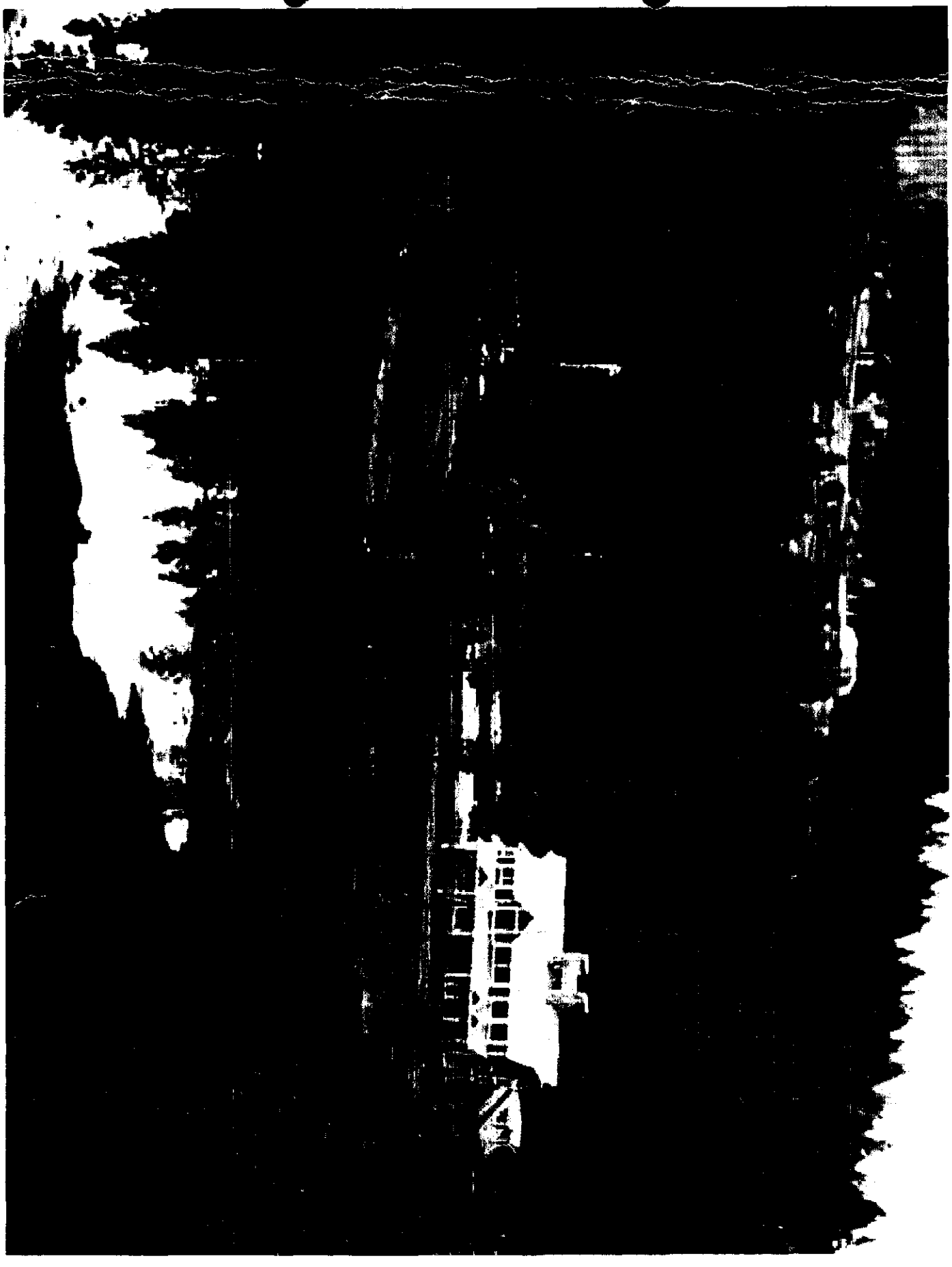
From: emahoney [emahoney@micron.com]
Sent: Thursday, August 30, 2001 9:45 PM
To: 'Terry Scanlan'; 'Jeff Fereday'; 'Ed Squires'
Subject: Secret pond fill pipe (correction)

When I got home tonight I double checked the location Lori Graves was asking about, with the suspicious pipe. I didn't get it wrong today, but I didn't get it completely right either. The pipe that Lori refers to is a 4 inch PVC that is buried a couple of feet lower than the irrigation pipes I thought we were talking about. In fact, I got the shovel out and started digging back away from the ditch and I did uncover the abandoned PVC from the old circuit. It already has a cap on it. I have left it exposed for future inspection.

I had to call the landscaper to remember what is going on with the 4 inch PVC. After the 8" well was completed by SOS Well Drilling including installation of the pumps (January 2000), we ran the 4 inch PVC from the well to the ditch as a temporary open discharge from the well. We just left it exposed in a backhoe trench 4 feet deep. As I recall, we came off the pitless adapter at the well with some 2 inch and just ran it inside the 4 inch a little ways. When the landscaper came along in the spring he disconnected the temporary PVC setup and installed the permanent irrigation system pipes, and just left the 4inch in the ground. As I recollect, we ended up not running the open discharge anyway, because the circuit breaker kept tripping the system off.

Clearly the 4 inch pipe at the ditch end is dry and mostly full of dirt. The sprinkler valve above ground is contributing to some moisture in the area as it seems to have a little leaking going on while the pump runs. (and Terry mentioned this possibility to Lori)

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Karl

COPY

Jeffrey C. Fereday ISB # 2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
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P.O. Box 2720
Boise, Idaho 83701
Telephone Number: (208) 388-1200
Facsimile: (208) 388-1300
S:\CLIENTS\5810\Notice of service mangum.doc

Attorneys for James E. Mahoney

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AUG 30 2001
Department of Water Resources

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AUG 31 2001
WATER RESOURCES
WESTERN REGION

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218, JAMES E. MAHONEY	NOTICE OF SERVICE OF DISCOVERY TO FRANCIS AND SHIRLEY MANGUM

James E. Mahoney ("Mahoney") by and through his attorneys of record, Jeffrey C. Fereday and John M. Marshall of the firm Givens Pursley LLP, and pursuant to the Idaho Rules of Civil Procedure, hereby notifies IDWR and all parties that on this date Mahoney's Responses to Mangum's First Set of Interrogatories and Requests for Production were served on Francis and Shirley Mangum.

DATED this 29th day of August, 2001.

Givens Pursley LLP

John M. Marshall

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of August 2001, I caused a true and accurate copy of the above and within NOTICE OF SERVICE to be served by method to the following.

Director Idaho Department of Water Resources 1301 N. Orchard Street Boise, ID 83706	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Rex Lanham 2630 Highway 21 Boise, ID 83716	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Francis & Shirley Mangum c/o Charlie Honsinger, Esq. Ringert & Clark Chtd. 455 S. 3rd St. P.O. Box 2773 Boise, ID 83701-2773	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Kevin Smith and Debra Borley 70 Settlers Rd. Boise, ID 83601	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Robert & Pamella Smolczynski 75 Settlers Rd. Boise, ID 83601	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile

John M. Marshall

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NOV 12 2002

FAX

Scanlan Engineering

600 East River Park Lane, # 105
Boise, Idaho 83706

Tel: 208 383-4140
Fax: 208 383-4156

Date: **August 27, 2001**

To:	Lori Graves	**Fax No:**	334-2348
From:	Terry Scanlan	**Reference:**	
Subject:	Mahoney Well Pump	**No. of Pages:** (including cover)	**3**

Lori –

The pump curve for the 5-hp pump in Ed Mahoney's 8-inch well follows. The well is set at 294 feet on 2-inch pipe.

Please call me with any questions.

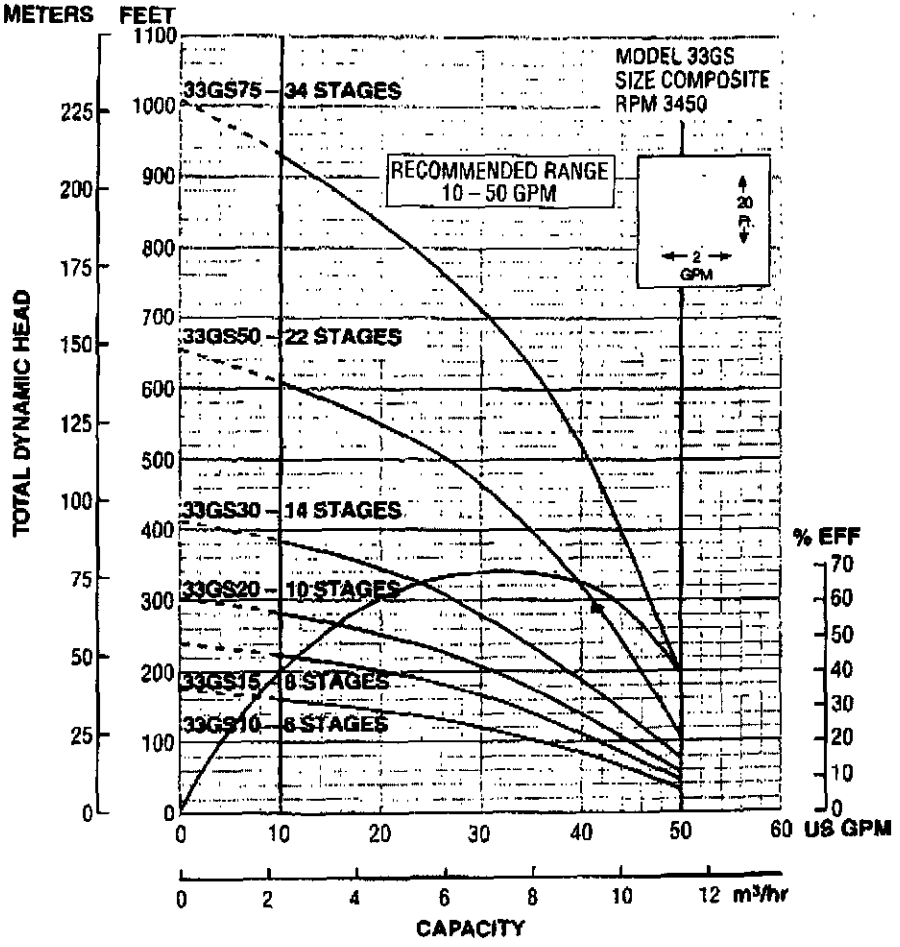
Terry

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If you do not receive all pages, or if there are any problems with this transmission, please call at 208 383-4140

Model 33GS

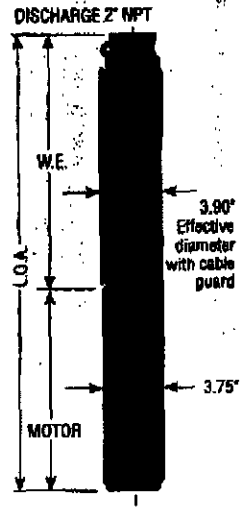
Mahoney
GOULDS PUMPS
ITT Industries



DIMENSIONS AND WEIGHTS

HP	Stages	W.E. Order No.	Motor Order No.	PH	Motor Volts	Motor Length	W.E.① Length	L.O.A.②	W.E. and Motor Weight
1	6	33GS10	S06940	1	230	9.5	14.2	23.7	32
			S06978*	3	200	11.8	14.2	26	33
			S06970		230				
			S06975		460				
1½	8	33GS15	S07940	1	230	13.6	16.6	30.2	37
			S07978	3	200	11.8	16.6	28.4	32
			S07970		230				
			S07975		460				
			S07979*		575				
2	10	33GS20	S08940	1	230	19.1	15.1	34.2	40
			S08978	3	200	19.1	13.6	32.7	38
			S08970		230				
			S08975		460				
			S08979		575				
3	14	33GS30	S09940	1	230	23.5	24	47.5	65
			S09978	3	200	20.6	24	44.6	56
			S09970		230				
			S09975		460				
			S09979		575				
5	22	33GS50	S10940	1	230	29.5	35.2	64.7	88
			S10978	3	200	23.6	35.2	58.8	72
			S10970		230				
			S10975		460				
			S10979*		575				
7½	34	33GS75	S119784	3	200	29.6	49.6	79.2	92
			S119704		230				
			S119754		460				

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NOTES:
For complete pump, order water end and motor.
① W.E. = water end or pump without motor.
② L.O.A. = length of assembly – complete pump – water end and motor.
* Non-stock motors have a 6 week lead time.

Model 33GS

GOULDS PUMPS
ITT Industries

SELECTION CHART

Horsepower Range 1 – 5, Recommended Range 10 – 50 GPM, 60 Hz, 3500 RPM

Pump Model	HP	PSI	Depth to Water in Feet/Ratings in GPM (Gallons per Minute)																										
			20	40	60	80	100	120	140	160	180	200	220	240	260	280	300	320	340	360	380	400	420	440	460	480	520	560	600
33GS10	1	0		48	40	41	36.5	30.0	22.3	11.2																			
		20	44	34.3	34.0	29.4	19.8																						
		30	38.7	33.7	26.2	17.5																							
		40	32.0	25.1	16.5																								
		50	24.1	14.8																									
		60	13.2																										
Shut-off PSI			67	59	50	41	33	24	15	7																			
33GS15	1½	0			48.7	46.2	43.2	40.0	36.2	32.5	25.6	20.0																	
		20	49.3	45.7	41.7	39.2	34.4	31.3	23.7	17.0																			
		30	45.1	41.2	38.1	33.1	30.0	22.5	15.5																				
		40	40.8	37.4	33.0	29.1	21.9	13.5																					
		50	37.1	32.9	27.8	21.3	12.6																						
		60	32.7	26.3	20.7	11.3																							
Shut-off PSI			86	78	69	60	52	43	34	26	17	8																	
33GS20	2	0			49.8	47.5	45.3	42.9	40.6	38.2	35.0	31.5	27.5	22.5	15.3														
		20	49.4	46.9	44.1	42.7	40.4	37.9	34.3	30.9	26.7	21.2	14.1																
		30	46.3	43.7	42.5	40.2	37.4	33.7	30.1	25.9	20.1	12.5																	
		40	43.4	41.8	39.9	37.1	33.1	28.3	25.0	19.1	11.6																		
		50	41.5	38.9	36.3	32.8	28.0	24.6	18.6	10.8																			
		60	38.5	35.5	32.1	27.9	23.4	17.1	10.0																				
Shut-off PSI			121	113	104	95	87	78	69	61	52	43	35	26	17														
33GS30	3	0				48.1	47.5	46.2	44.8	42.8	41.2	40.0	37.8	35.5	33.1	30.6	27.5	23.1	19.8	15.0	10								
		20		48.0	47.3	45.9	44.4	42.4	40.9	39.6	36.9	35.0	32.9	30.1	26.8	22.4	18.4	14.3											
		30	47.9	47.1	45.7	44.2	42.2	40.8	39.4	36.5	34.7	32.5	29.8	26.2	21.8	17.8	13.6												
		40	46.7	45.4	43.8	41.8	40.6	39.2	36.3	34.3	32.3	29.3	25.6	21.4	17.1	12.5													
		50	45.2	43.4	41.6	40.4	38.9	35.8	33.8	31.4	28.4	24.5	20.9	16.3	12.1														
		60	43.2	41.4	40.2	38.3	35.5	33.4	30.9	27.9	23.7	20.5	15.5	11.2															
Shut-off PSI			168	160	151	142	134	125	116	108	99	90	82	73	64	56	47	38	30	21	12								
33GS50	5	0					50	48.8	48.2	47.5	46.5	45.9	44.9	43.7	42.5	41.2	40.5	39.9	38.7	37.5	36.7	35.0	33.6	32.5	30.5	27.8	22.8	17.5	11.5
		20			49.4	48.7	48.0	47.4	46.4	45.8	44.7	43.5	42.3	41.1	40.4	39.5	38.5	37.4	36.4	34.8	33.4	31.8	30.2	27.4	24.8	21.9	16.8	10	
		30		49.2	48.6	47.9	47.2	46.3	45.6	44.5	43.3	42.2	41.0	40.3	39.4	38.2	37.3	36.2	34.4	33.3	31.4	29.0	27.2	24.3	21.5	19.2	14.0		
		40	49.1	48.5	47.8	47.0	46.2	45.4	44.0	43.0	42.0	40.9	40.2	39.2	38.0	37.2	36.0	34.2	33.2	31.2	28.6	27.0	24.0	21.3	19.0	16.1			
		50	48.4	47.7	46.8	46.1	45.2	43.9	42.9	41.7	40.8	40.1	39.0	37.9	37.1	35.6	34.0	33.0	31.0	28.3	26.5	23.7	21.0	18.1	15.7	13.0			
		60	47.6	46.7	46.0	45.0	43.8	42.7	41.4	40.7	40.0	38.9	37.7	36.9	35.3	33.8	32.7	30.7	28.1	26.3	23.2	20.7	17.9	15.3	12.0				
Shut-off PSI			275	267	258	249	241	232	223	215	206	197	189	180	171	163	154	145	137	128	119	111	102	94	85	76	59	42	24

Horsepower Range 7½, Recommended Range 10 – 50 GPM, 60 Hz, 3500 RPM

Pump Model	HP	PSI	Depth to Water in Feet/Ratings in GPM (Gallons per Minute)																										
			80	100	120	140	160	180	200	220	240	260	280	320	360	400	440	480	520	560	600	640	680	720	760	800	840	880	920
33GS75	7½	0							49.8	48.7	48.1	47.59	47.5	46.2	45.0	43.5	42.3	40.6	39.4	37.6	35.5	33.7	32.2	29.5	26.7	22.7	20.0	15.8	11.2
		20					49.4	48.6	48.0	47.58	47.45	46.9	46.1	44.9	43.4	42.2	40.5	39.1	37.5	35.4	35.5	31.8	29.2	26.5	22.4	19.5	15.1		
		30				49.2	48.5	47.9	47.57	47.4	46.8	46.0	45.4	43.9	42.7	41.2	39.8	38.0	36.5	34.7	32.5	30.2	27.6	24.5	20.9	16.6	12.4		
		40			49.1	48.4	47.8	47.56	47.38	46.7	45.9	45.3	44.6	43.2	42.0	40.3	38.7	37.3	35.2	33.2	31.1	28.5	26.1	22.0	19.0	14.4			
		50		48.9	48.3	47.7	47.55	47.35	46.5	45.8	45.2	44.4	43.7	42.5	40.9	34.6	37.8	36.1	34.2	32.3	29.9	27.2	23.4	20.5	16.2	11.9			
		60	48.8	48.2	47.6	47.54	47.3	46.3	45.7	45.1	44.2	43.6	43.0	41.7	40.1	38.3	37.1	35.0	32.7	30.8	28.0	25.3	21.4	17.9	13.9				
Shut-off PSI			400	392	383	374	366	357	348	340	331	322	314	296	279	262	245	227	210	193	175	158	141	123	106	89	71	54	37

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GIVENS PURSLEY LLP

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Raymond D. Givens
James A. McClure
OF COUNSEL

August 21, 2001

RECEIVED
AUG 23 2001
WATER RESOURCES
WESTERN REGION

VIA U.S. MAIL

Director
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

Re: In the Matter and Application for Permit No. 63-31218 in the name of James E. Mahoney
Our File: 5810-2

Dear Director:

Enclosed please an original and one copy of Applicant James Mahoney's Motion to Dismiss Protest in connection with the above-captioned matter.

Please forward a conformed copy of the enclosed document to the undersigned in the enclosed self-addressed stamped envelope.

Thank you for your assistance in this matter.

Sincerely,

John M. Marshall

JMM/tma
Enclosure
cc: Rex Lanham (w/enclosure – via U.S. Mail)
Francis & Shirley Mangum (w/enclosure – via U.S. Mail)
Kevin Smith and Debra Borley (w/enclosure – via U.S. Mail)
Robert and Pamella Smolczynski(w/enclosure – via U.S. Mail)

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Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
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Facsimile: 208-388-1300
GENIE.SYS:DATA:MACS:JCF:Mahoney 5810:Discovery:Motion to dismiss 8.9.01

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	MOTION TO DISMISS PROTEST

Applicant James E. Mahoney ("Mahoney") hereby moves the Idaho Department of Water Resources ("IDWR") for an order dismissing the Protest filed by Rex Lanham ("Lanham") in this matter. The grounds for this motion are as follows:

1. Lanham filed a Notice of Protest on May 18, 2001 (the "Protest").

2. On June 12, 2001, IDWR issued its Order Authorizing Discovery in this matter.

3. Pursuant to this Order, Mahoney served discovery requests on Lanham on July 6, 2001, requesting responses within 15 days in accordance with the Idaho Rules of Civil Procedure. The discovery requests and notice of service to Lanham are attached as Exhibit 1.

4. Responses to the discovery served on July 6, 2001 were due from Lanham on July 23, 2001.

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5. As of today, Mahoney has not received any response from Lanham to the discovery.

6. On August 3, 2001, Mahoney, through his counsel, mailed a letter to Lanham requesting that he immediately respond to the July 6, 2001 discovery requests, and stating that Mahoney would file this motion if Lanham failed to respond or otherwise contact Mahoney by Wednesday, August 8, 2001. Lanham has not responded.

7. Mahoney has undertaken all reasonable efforts to obtain discovery responses from Lanham.

8. Under Idaho Rule of Civil Procedure 37(d), if a party to an action fails to serve responses to interrogatory requests, the court in which the action is pending may make such orders in regard to the failure as are just, including dismissal of the action. *See* Idaho Rule of Civil Procedure 37(b)(C). Discovery under IDWR rules of procedure is governed by the Idaho Rules of Civil Procedure. IDAPA 37.01.01.520.01.

9. Protestant has failed to serve any responses to interrogatories properly served on them by Mahoney, has failed to respond to Mahoney's follow-up request that answers be served, and has failed to participate in the mandatory discovery process.

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For all these reasons, Mahoney respectfully requests that IDWR dismiss the Notice of Protest filed by Lanham and preclude him from further participation in this matter.

Respectfully submitted this 21st day of August 2001.

GIVENS PURSLEY LLP

John M. Marshall

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NOV 12 2002

Certificate of Service

I hereby certify that on this 21st day of August 2001, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Director Idaho Department of Water Resources 1301 N. Orchard Street Boise, ID 83706	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Rex Lanham 2630 Highway 21 Boise, ID 83716	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Francis & Shirley Mangum c/o Charlie Honsinger, Esq. Ringert & Clark Chtd. 455 S. 3rd St. P.O. Box 2773 Boise, ID 83701-2773	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Kevin Smith and Debra Borley 70 Settlers Rd. Boise, ID 83716	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Robert & Pamella Smolczynski 75 Settlers Rd. Boise, ID 83716	_____Via Hand Delivery __X__Via U.S. Mail _____Via Fed-X _____Via Facsimile

John M. Marshall

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NOV 1 2 2002

FILE COPY

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John M. Marshall ISB #5628
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P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\MACS\JCF\Mahoney 5810\Discovery\Dicovery Request First - Rex Lanham.doc

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218	JAMES E. MAHONEY'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO REX LANHAM

YOU WILL PLEASE TAKE NOTICE that James E. Mahoney ("Mahoney") requests that Rex Lanham answer, under oath, the following Interrogatories and serve a written response to the following Requests for Production of Documents within fifteen (15) days from the date of service hereof.

PRELIMINARY STATEMENT

1. In answering these Interrogatories and Requests for Production, furnish all information available to you, including information in the possession of your attorneys (and investigators, employees, experts, etc., retained by you and your attorneys), not merely information known of your own personal knowledge.

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2. If you cannot answer the following Interrogatories in full after exercising due diligence to secure the information to do so, answer to the extent possible, specify your inability to answer the remainder, and state whatever information and knowledge you have concerning the unanswered portion.

3. Your answers to the following Interrogatories are to be supplemented as additional information and knowledge becomes available to you pursuant to the Idaho Rules of Civil Procedure.

4. This Request includes all Documents in your possession or under your control, including Documents in the possession of your attorneys, accountants, expert witnesses or other agents or persons from whom you have a legal right to obtain such Document.

5. All responsive Documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories of this request.

6. If, after responding to this request you acquire any Documents requested herein, or any information related to any Document herein, which is not reflected by any Documents produced or any response to these requests, you must file a supplemental response.

7. If any information which is requested herein is or will be withheld from production, inspection or copying (whether because it is claimed to be work product, communication from attorney to client, or is entitled to be withheld for any other reason) you shall make the claim expressly and shall describe the nature of the documents,

FILED
NOV 12 2002

communications, or things not produced or disclosed in a manner that will enable Mahoney to assess the applicability of the privilege or protection. In addition, if any document is practically impossible of production, inspection, or copying, please fully identify such document and the reason for the practical impossibility.

8. Mahoney requests that you serve answers to these interrogatories within fifteen (15) days of the date of service hereof. Mahoney further requests that you serve responses to these Requests for Production and produce each of the documents requested, or in the alternative provide copies of the documents requested, at the office of Givens Pursley LLP, 277 N. 6th Street, Boise, Idaho 83702 within fifteen (15) days of the date of service hereof.

DEFINITIONS

1. As used herein, the term "you" and "your" means Rex Lanham, his agents, or any other of his representatives.

2. "Document" means and includes any and all tangible things and papers, whether written, recorded, graphic, typewritten, printed, photographed or otherwise produced or reproduced, and whether produced manually or by mechanical, electrical, electronic, other artificial process or a combination of these methods, including but not limited to papers, computer records and/or files, agreements, contracts, letters, cables, wires, notes, memoranda, correspondence, telegrams, patents, books, reports, studies, minutes, records, accounting books, maps, plans, blueprints, sketches, charts, drawings, diagrams, photographs, movies, films, videotapes, computer printouts, tape recordings, information

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stored on computers, assignments, notebooks, ledgers, bills, statements, invoices, checks, receipts, analyses, surveys, transcriptions, and recordings, of which you have any knowledge or information, referring, relating or pertaining in any way to the subject matters in connection with which the word is used. The term "Document" includes, without limitation, originals, all file copies, and all of the copies no matter how or by whom prepared and all drafts prepared in connection with such writings, whether used or not.

3. "Identify" when used with respect to a person means to provide such person's full name, occupation, mailing and physical address, and telephone number.

4. "Protest" means the Protest filed by you to the Permit 63-31218.

5. "Permit 63-31218" means the Application for Permit in the name of James E. Mahoney numbered 63-31218 to which you have filed a Protest.

6. "IDWR" means the Idaho Department of Water Resources.

INTERROGATORIES

INTERROGATORY 1: Please identify who provided the answers to these interrogatories.

INTERROGATORY 2: Do you intend to call any witnesses at the hearing in this matter? If so, please identify the witnesses you intend to call.

INTERROGATORY 3: Will any of your witnesses testify about scientific matters, including but not limited to hydrology or hydrogeology? If so, for each please identify:

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(1) the subject matter of the testimony;

(2) the education or experience that qualifies the witness as an expert; and

(3) the facts and opinions that he or she will testify to.

INTERROGATORY 4: Are you going to use any documents or exhibits at the hearing in this matter? If so, please describe the documents and exhibits you are going to use.

INTERROGATORY 5: For each water right that authorizes you to use water on your property, please identify:

(1) the water right number,

(2) the details of how you divert and use water pursuant to that right, including but not limited to the quantity of water used and when and where you use it, and

(3) any changes you or any previous owner of your property have made to the way water is used.

INTERROGATORY 6: Please identify each water right used on property you own that you contend is affected by the uses proposed in Permit 63-31218, and for each water right identify:

(1) how it is affected, and

(2) all facts that support your conclusion that it is affected.

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NOV 12 2002

INTERROGATORY 7: Please identify all facts and documents that support the statement in your Protest that the "water supply is not sufficient for the purpose" identified in Mahoney's application for permit.

INTERROGATORY 8: Please identify all facts and documents that support the statement in your Protest that Mahoney's proposed water right will conflict with the "local and state interest toward conservation of water resources within Idaho."

INTERROGATORY 9: Please identify all facts that support the allegation in your Protest that Mahoney's proposed water right should be denied.

INTERROGATORY 10: Are there any conditions IDWR could include in Permit 63-31218 that would cause you to withdraw your Protest? If so, please identify what those conditions would be.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION 1: All documents you identified in your responses to Interrogatories 1 to 10 above.

REQUEST FOR PRODUCTION 2: Any documents that support your contention that:

(1) Permit 63-31218 should be denied,

(2) Mahoney's pumping negatively affects your water rights, and/or

(3) the water supply for Mahoney's proposed water right is insufficient for the purposes for which it is sought to be appropriated.

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REQUEST FOR PRODUCTION 3: All documents that describe or indicate how water is used on your property.

REQUEST FOR PRODUCTION 4: All documents reviewed and/or prepared by any witnesses identified in your Response to Interrogatory No. 3 in forming his or her opinions relating to this matter.

Respectfully submitted this 6th day of July, 2001.

GIVENS PURSLEY LLP

Jeffrey C. Fereday

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NOV 12 2002

Certificate of Service

I hereby certify that on this 6th day of July, 2001, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Rex Lanham
2630 Highway 21
Boise, Idaho 83716

✓ U.S. Mail
_____ Hand Delivery
_____ Overnight
_____ Telecopy

Jeffrey C. Fereday

Jeffrey C. Fereday

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NOV 12 2002

Jeffrey C. Fereday ISB # 2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701
Telephone Number: (208) 388-1200
Facsimile: (208) 388-1300
GENIE.SYS:DATA:CLIENTS:3915:46:Discovery:Notice of service

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218, JAMES E. MAHONEY	**NOTICE OF SERVICE OF DISCOVERY TO REX LANHAM**

James E. Mahoney ("Mahoney") by and through his attorneys of record, Jeffrey C. Fereday and John M. Marshall of the firm Givens Pursley LLP, and pursuant to the Idaho Rules of Civil Procedure, hereby notifies IDWR and all parties that on this date Mahoney's First Set of Interrogatories, Requests for Production were served on Rex Lanham.

DATED this 6th day of July, 2001.

Givens Pursley LLP

Jeffrey C. Fereday

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NOV 12 2002

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of July 2001, I caused a true and accurate copy of the above and within NOTICE OF SERVICE to be served by method to the following.

Director Idaho Department of Water Resources 1301 N. Orchard Street Boise, ID 83706	_____Via Hand Delivery __✓_Via U.S. Mail _____Via Fed-X _____Via Facsimile
Rex Lanham 2630 Highway 21 Boise, ID 83716	_____Via Hand Delivery __✓_Via U.S. Mail _____Via Fed-X _____Via Facsimile
Francis & Shirley Mangum c/o Charlie Honsinger, Esq. Ringert & Clark Chtd. 455 S. 3rd St. P.O. Box 2773 Boise, ID 83701-2773	_____Via Hand Delivery __✓_Via U.S. Mail _____Via Fed-X _____Via Facsimile
Kevin Smith and Debra Borley 70 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓_Via U.S. Mail _____Via Fed-X _____Via Facsimile
Robert & Pamella Smolczynski 75 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓_Via U.S. Mail _____Via Fed-X _____Via Facsimile

Jeffrey C. Fereday

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NOV 12 2002

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NOV 12 2002

GIVENS PURSLEY LLP

FILE COPY

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Direct Dial: (208) 388-1270
E-Mail: jmm@givenspursley.com

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jacqueline M. Fearnside
Timothy P. Fearnside
Jeffrey C. Fereday
Amanda L. Keating
Kari T. Klein
Debora K. Kristensen
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Virginia L. Stukel
Conley Ward
Stephanie C. Westermeier
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

August 3, 2001

VIA CERTIFIED MAIL #7000 1530 0002 6721 1449
RETURN RECEIPT REQUESTED

Rex Lanham
2630 Highway 21
Boise, Idaho 83716

Re: Mahoney Water Right Application No. 63-31218
Our File: 5810-2

Dear Mr. Lanham:

On June 12, 2001, the Idaho Department of Water Resources ("IDWR") issued an order allowing discovery in this matter. Pursuant to that order, we mailed you James Mahoney's First Set of Interrogatories and Requests for Production to Rex Lanham on July 6, 2001, with instruction to submit written answers and documents to us within fifteen days. Allowing three days for mailing, your answers to our discovery requests were due on July 23, 2001. As of today, we have not received any answers from you or any indication that you would submit them late. If we do not receive completed answers to our discovery requests by next Wednesday, August 8th, we will file a motion with IDWR to dismiss your protest.

Sincerely,

John M. Marshall

JMM:srf
cc: Ed Mahoney (via U.S. Mail)
S:\maCS\jcF\mahoney 5810\JMM to Lanham re dismiss.doc

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Braun Consulting
4840 View Place Meridian, ID 83642
(208) 898-0775 Fax: (208) 898-0423

August 9, 2001

RECEIVED
AUG 10 2001
RINGERT CLARK

Mr. Francis Mangum
17 Old Mill Road
Boise, Idaho 83716

Re: Mahoney Pond Evaporation Rates

Dear Mr. Mangum:

At your request, this letter provides a brief evaluation of evaporation rates that are predicted from the Mahoney pond near Clear Creek. Due to the inherent problems associated with direct measurement of pond evaporation, indirect or corollary methods are used. Indirect methods include hydrologic budget calculation, energy budget calculation, comparison to pan evaporation data, and statistical graphic methods using pan evaporation and meteorlogical data (Dunne and Leopold, 1978). Three of these methods were used to estimate evaporation for the Mahoney pond.

Pan evaporation data were published by Farnsworth and others in 1982. Pan evaporation rates are larger than pond evaporation rates due to the effects of the side and bottom of the pan and other difficulties. In general, pond evaporation rates are about 70% of pan evaporation (Dunne and Leopold, 1978). Annual pan evaporation at the subject site is about 40 inches; thus, annual evaporation from a pond would be about 28 inches, most of which occurs in summer months. Molnau and others (1992) reported July pan evaporation data for the weather station at Arrowrock Dam to be 9.88 inches, which would equate to about 0.22 inch pond evaporation per day.

Free water surface evaporation maps were used by Molnau and others (1992) to estimate monthly evaporation rates from ponds in Idaho. Application of this method to the Mahoney pond results in a predicted evaporation rate of 5.1 inches of water for the month of July, or about 0.17 inch of water evaporation per day.

Rates of evaporation are controlled by several physical and meteorlogic variables, including temperature, wind speed, sun angle, humidity, and vapor pressure. Dunne and Leopold (1978) describe one method that used statistics based on these and other data to create a graphic solution for daily evaporation from a pond. Attached is a plot of the Mahoney pond evaporation using this graphical technique. The following weather data for the subject site that were used in the graph were obtained from National Weather Service and Climate Services for Idaho internet sites. Mean Daily Temperature for July: 65°F; Mean Daily Dew Point Temperature for July: 40°F; Mean Wind Speed: 3.5 mph; and, Solar Radiation: 720 Langleys per day. The resulting graphical solution indicates a daily evaporation rate of 0.24 inch per day from the Mahoney pond during the month of July.

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Based on this evaluation, average evaporation during the month of July from the Mahoney pond would range from 0.17 to 0.24 inch per day.

If you have any questions, please contact me at your convenience.

Sincerely,
BRAUN CONSULTING

Roger E. Braun, P.G.
Project Manager

Enclosure

Xc Mr. Charles L. Honsinger

REFERENCES CITED

Farnsworth, R.K., Thompson, E.S., and Peck, E.L., 1982, Evaporation Atlas for the Contiguous 48 United States; USDC, NOAA, National Weather Service, NOAA Technical Report NWS 33.

Dunne, T., and Leopold, L.B., 1978, Water in Environmental Planning, W.H. Freeman and Company, 818 pages.

Molnau,Myron, Kpordze, Kojo C.S., and Craine, Katherine L., 1992, Monthly shallow pond evaporation in Idaho, ASAE paper PNW 92-111.

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• = Mahoney pond

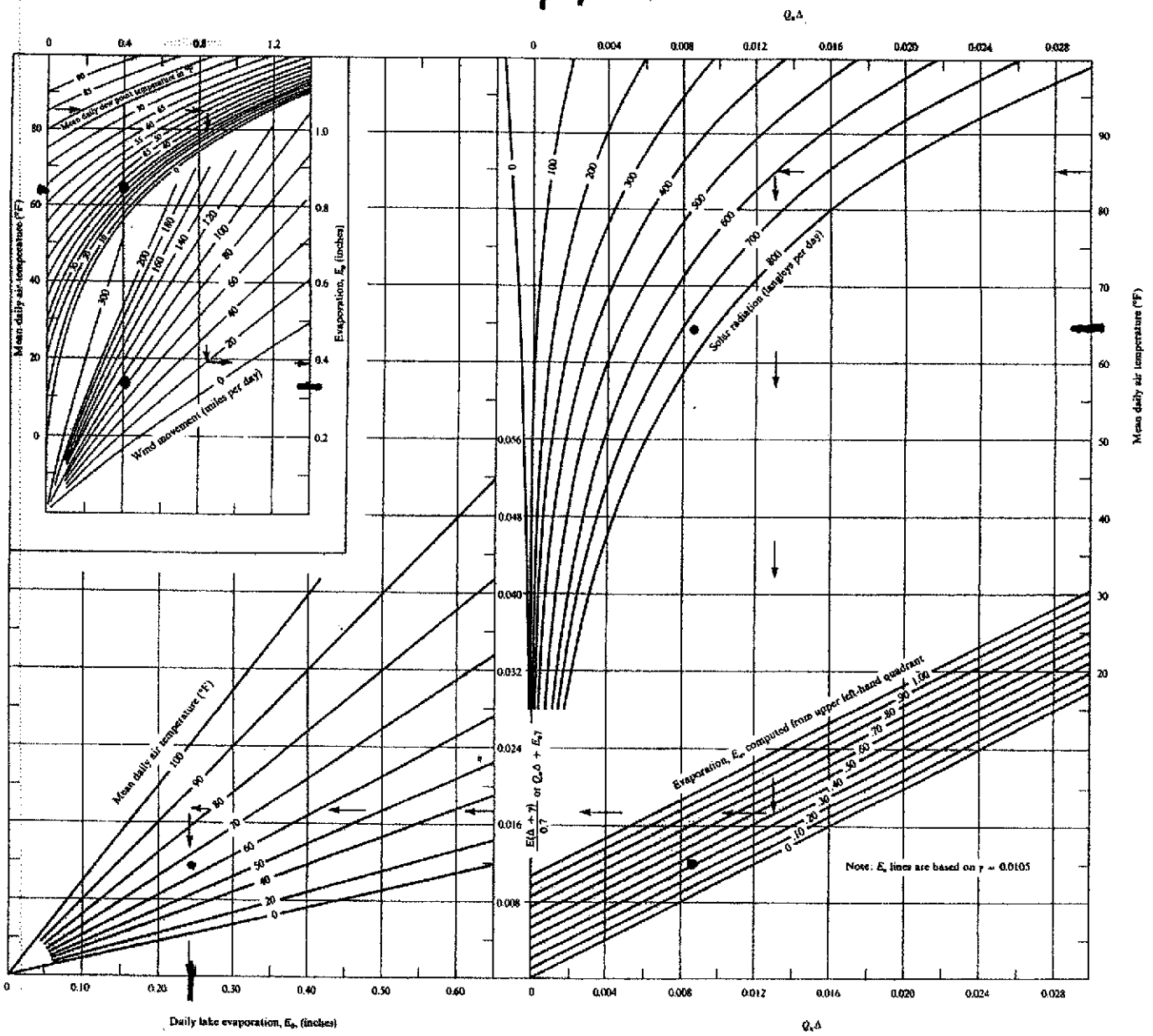


Figure 4-9 Computation of lake evaporation from meteorological data. To use the diagram: (1) enter upper left diagram with mean daily air temperature; (2) at mean daily dew-point temperature, read down to wind measurement; (3) read horizontally to right scale of E_a; (4) enter upper right diagram with mean daily air temperature, move left to value of solar radiation; (5) move downward to previously computed value of E_a in lower diagram; (6) thence left to lower left diagram to mean daily temperature; (7) thence downward to read answer, daily lake evaporation. The dew-point temperature is the temperature to which the atmosphere must be cooled before its water vapor will condense. It is therefore a measure of the vapor pressure and is routinely published with other weather records.

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AUG 10 2001
WATER RESOURCES
WESTERN REGION

RECEIVED
AUG - 9 2001
Department of Water Resources

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Francis and Shirley Mangum

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR WATER RIGHT NUMBER 63-31218 IN THE NAME OF JAMES E. MAHONEY	CERTIFICATE OF SERVICE

This will certify that I have on the 8th day of August, 2001, mailed true and correct copies of Mangum's First Set of Interrogatories and Request for Production of Documents to Applicant and Mangum's Response to Mahoney's First Set of Interrogatories and Requests for Production of Documents to:

James E. Mahoney
c/o Jeffrey C. Fereday
GIVENS PURSLEY
P.O. Box 2720
Boise, Idaho 83701

DATED this 8th day of August, 2001.

RINGERT CLARK CHARTERED

BY: Charles L. Honsinger
CHARLES L. HONSINGER

MICROFILMED
NOV 12 2002

ORIGINAL

CERTIFICATE OF SERVICE

I certify that on this 8th day of August, 2001, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

Director Idaho Department of Water Resources 1301 N. Orchard Street Boise, Idaho 83706	____ Hand Delivery __X__ U.S. Mail ____ Federal Express ____ Facsimile
Rex Latham 2630 Highway 21 Boise, Idaho 83716	____ Hand Delivery __X__ U.S. Mail ____ Federal Express ____ Facsimile
Kevin Smith and Debra Borley 70 Settlers Road Idaho City, Idaho 83601	____ Hand Delivery __X__ U.S. Mail ____ Federal Express ____ Facsimile
Robert and Pamella Smolczynski 75 Settlers Road Idaho City, Idaho 83601	____ Hand Delivery __X__ U.S. Mail ____ Federal Express ____ Facsimile

DATED this 8th day of August, 2001.

RINGERT CLARK CHARTERED

by: _____
CHARLES L. HONSINGER

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AUG 0 2 2001
WATER RESOURCES
WESTERN REGION

GIVENS PURSLEY LLP

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
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Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jacqueline M. Fearnside
Timothy P. Fearnside
Jeffrey C. Fereday
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Judson B. Montgomery
Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Virginia L. Stukel
Conley Ward
Stephanie C. Westermeier
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

Direct Dial: (208) 388-1217
E-Mail: jcf@givenspursley.com

August 1, 2001

VIA U.S. Mail

Gary L. Spackman
Western Region Director
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Mahoney Water Right Application, No. 63-31218
Our File: 5810-2

Dear Gary:

This is a response to Charlie Honsinger's letter to you dated July 26, 2001 requesting that IDWR curtail Ed Mahoney's domestic water right. Mr. Honsinger's letter, written on behalf of his clients Francis and Shirley Mangum, asserts that curtailment is necessary because the combined area of a pond and irrigated ground on Mr. Mahoney's property exceeds one-half acre.

W are surprised that the Mangums have made this request, which we take to be some sort of motion for preliminary injunction or similar pre-trial relief. As you know, the parties and IDWR discussed the issue of pond size as it relates to domestic water rights at the pre-hearing conference on the protests to Mr. Mahoney's proposed ground water right. I believe the parties noted during the pre-hearing conference that the Department or a court has not decided this issue, and that it may be an issue for determination in this case. Mr. Honsinger's letter asks that you simply conclude now, before hearing or briefing, that a water right that diverts less than 13,000 gallons per day and irrigates no more than half an acre cannot be used to fill a pond. To the extent that this is a legal question in this case it should be taken up as part of the hearing.

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In any event, an exchange of letters is not the appropriate method for addressing the legal parameters of Idaho Code § 42-111 or making conclusions about whether valid existing water rights should be curtailed. If the Mangums want to press this issue, presumably they will have the opportunity to make their case in the hearing on their protest.

Sincerely,

John M. Marshall

JMM/tma

cc: Ed Mahoney
Charles L. Honsinger, Esq.
Kevin Smith & Debra Borley
Rex Lanham
Robert & Pamella Smolczynski

S:\macs\jcf\mahoney 5810\Spackman re Honsinger ltr 7.31.01.doc

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NOV 1 2 2002

PW [redacted] = 200 to 250'

Subj: **pump test**
Date: 08/01/2001 7:31:26 AM Mountain Daylight Time
From: sm@velocitus.net (Steven Neubauer)
To: TMSCANLAN@aol.com

File: table.doc (26112 bytes)
DL Time (26400 bps): < 1 minute

Good Day, They got more rain up on the hill and it made a difference in the spring time. Ed said they had to run the heat pump 7/30 and 7/31. He is going to fax you well invoice. Got12psi at the sand trap with open discharge, 27psi w/sprinklers running, checked at house it was 48psi.
Bucket test was 7.04 as pump was kicked in and 6.78 as it was running. Pam hadn't pumped.
Steve

6.78 sec/5 gal

<!DOCTYPE HTML PUBLIC "-//W3C//DTD HTML 4.0 Transitional//EN">
<HEAD>
<META http-equiv=Content-Type content="text/html; charset=iso-8859-1">
<META content="MSHTML 5.50.4522.1800" name=GENERATOR>
<STYLE></STYLE>
</HEAD>

<DIV>Good Day, They got more rain up on the hill and it
made a difference in the spring time. Ed said they had to run the heat
pump 7/30 and 7/31. He is going to fax you well invoice. Got12psi at
the sand trap with open discharge,</DIV>
<DIV>27psi w/sprinklers running, checked at house it was
48psi.</DIV>
<DIV>Bucket test was 7.04 as pump was kicked in and 6.78
as it </DIV>
<DIV>was running. Pam hadn't pumped.</DIV>
<DIV>Steve</DIV>

7 sec | 5 gal 43 gpm

---------- Headers ----------
Return-Path: <sm@velocitus.net>
Received: from rly-zc02.mx.aol.com (rly-zc02.mail.aol.com [172.31.33.2]) by air-zc03.mail.aol.com (v79.27) with ESMTP id MAILINZC32-0801093125; Wed, 01 Aug 2001 09:31:25 -0400
Received: from halcyon.rmci.net (halcyon.rmci.net [205.162.184.63]) by rly-zc02.mx.aol.com (v79.20) with ESMTP id MAILRELAYINZC27-0801093050; Wed, 01 Aug 2001 09:30:50 -0400
Received: (qmail 25287 invoked from network); 1 Aug 2001 13:30:36 -0000
Received: from dialup-ip-216-222-109-78.boi.rmci.net (HELO l2m0p9) (216.222.109.78)
by mx20.rmci.net with SMTP; 1 Aug 2001 13:30:36 -0000
Message-ID: <001201c11a8e$5e3081c0$4e6dded8@l2m0p9>
From: "Steven Neubauer" <sm@velocitus.net>
To: <TMSCANLAN@aol.com>
Subject: pump test
Date: Wed, 1 Aug 2001 07:31:22 -0600
MIME-Version: 1.0
Content-Type: multipart/mixed;
boundary="----=_NextPart_000_000E_01C11A5B.F6DFE920"
X-Priority: 3
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook Express 5.50.4522.1200
X-MimeOLE: Produced By Microsoft MimeOLE V5.50.4522.1200

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NOV 1 2 2002

date	Mahoney 8"	Mahoney 6"	James	Smolzynski	S-B Upper	S-B Lower	Cook	Spring (sec)
7/11	122.40'	107.25'	214.70'	89.79'	148.88'	90.35'	25.35'	69
7/13	118.23	105.47	214.55	92.48	148.80	90.27	25.34	77
7/15	116.04	103.72	214.39	93.57	148.72	90.07	25.22	85
7/17	114.87	102.96	214.38	91.38	148.73	90.08	26.64	83
7/19	113.70	102.61	214.33	89.09	148.81	90.18	26.33	81
7/21	111.97	101.80	214.21	102.33	148.75	90.11	29.31	84
7/23	111.62	100.78	214.12	91.70	148.79	90.14	27.60	88
7/25	111.18	99.79	214.03	90.28	148.72	90.15	27.24	93
7/27	NR	104.55	214.12	107.76	148.93	90.36	27.24	98
7/29	NR	106.93	214.25	90.37	148.90	90.38	26.99	97
7/31	NR	110.53	214.35	89.12	149.10	90.64	26.83	85

MICROFILM

NOV 1 2 2002

35 gpm 43 gpm @ 100 min

3500 to 4300 gpd sprinklers

43 gpm
180 min = 7740 gpd pumd/amenity

12040 gpd
300 domestic

12340

Sue —
Please ~~Edit~~ file

RECEIVED
JUL 30 2001
WATER RESOURCES
WESTERN REGION

July 26, 2001

Gary Spackman
Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

RE: Interrogatories and Request for Production of Documents concerning Application for Water Right No. 63-31218

Dear Gary,

I am attaching all of the documents that I have provided to Givens Pursley LLP. I want to be sure all concerned parties have copies for their respective files.

If you have any questions or need to contact me, our number is 392-4944.

Sincerely,

Pamella J. Smolczynski

MICROFILMED
NOV 12 2002

July 24, 2001

In the Matter of Application for Permit No. 63-31218:
Response to Request for Interrogatories and Requests for Production of Documents

From: Robert and Pamella Smolczynski

Interrogatory 1: Pamella Smolczynski

Interrogatory 2: No witnesses at this time, other than myself. Potentially Terry Scanlan whom you have his experience and facts.

Interrogatory 3: N/A

Interrogatory 4: I am not sure what we will use, I am providing you hard copies of what we have at this time, other than rules and statutes and other documents which you have access to and I know you already have copies of. We will be consulting a hydrogeologist but have no documents to offer at this time.

Interrogatory 5: Domestic use, you have our well drillers permit and log. There is no change to our domestic use.

Interrogatory 6: Domestic use

a) Our static water level is down approximately 30 feet from last year.
b) See Terry Scanlan's report.

Interrogatory 7: An equivalent ground water recharge in the amount of 17,000 gallons of water each day to offset the proposed pumping is not even close to what Mr. Mahoney's property receives. Consult precipitation tables. I believe the burden of proof is on the applicant to show that the proposed use is not contrary to conservation of water resources within the state (Idaho Code 42-203A).

Interrogatory 8: Damage may occur to water rights and supplies due to the fact that withdrawal amounts have been and are proposing to continue being much larger than recharge amounts received in the entire area. I believe the burden of proof is on the applicant to show that damage has not or will not result (Idaho Code 42-203A).

Interrogatory 9: Facts to support the statement that no consumptive uses other than reinjection from heat pumps should be allowed during November 1st to April 30th each year are common-sense in nature. Providing recharge during these periods is prudent practice, and endorsed by the applicant's hydrogeologist (see Scanlan's report dated August 28, 2000). Mr. Mahoney told me himself that the pond overflowed all of last winter, and the millions of gallons of ground water used were washed down a drainage.

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Interrogatory 10: Facts to support the conclusion that IDWR should deny or conditionally approve the applicant's permit are again, common sense. A gross use of ground water in a sensitive mountain aquifer is concerning. We drink the ground water – that is how we use it. Domestic use should not be compromised for aesthetic purposes. If IDWR approves such use, there needs to be a legal instrument to protect our rights to ground water usage. Our static water level has already dropped 30 feet from last year. Another fact, Boise County has declared a local drought disaster emergency. Another fact, IDWR is to consider whether or not the proposed use is contrary to conservation of water resources within the state. IDWR is supposed to ensure ground water depletion is not greater than recharge amounts (Idaho Code 42-237A and State Water Plan.) IDWR also has responsibilities under Idaho Code 42-203A and 42-222 that cannot be ignored.

Interrogatory 11: We have listed provisions that would allow our Protest to be withdrawn, which you have received. The only concern with the provisions stated is that our well has already dropped approximately 30 feet in static water depth since our protest was filed. The IDWR has known of this water usage for one year and has not resolved this issue. If we can obtain a guarantee that our property has not and will not be affected by this water usage, we would lift our protest, and leave the matter to the IDWR to determine whether this ongoing and proposed use is in the best interest of Idaho citizens (Idaho Code 42-203A).

Request for Production of Documents:

I am including copies of correspondence and will not make copies of the hydrogeologist report (Terry Scanlan) that you already have available. You also have copies of Idaho Statutes and Rules that I don't believe I need to make copies of. I picked out documents in my file that I believe you do not have copies of already.

Pamella J. Smolczynski

Cc: Francis Magnum
Gary Spackman

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Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\MACS\JCF\Mahoney 5810\Discovery\ First Discovery to Smolczynski.doc

RECEIVED
JUL 30 2001
WATER RESOURCES
WESTERN REGION

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218	JAMES E. MAHONEY'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO ROBERT AND PAMELLA SMOLCZYNSKI

YOU WILL PLEASE TAKE NOTICE that James E. Mahoney ("Mahoney") requests that Robert and Pamella Smolczynski answer, under oath, the following Interrogatories and serve a written response to the following Requests for Production of Documents within fifteen (15) days from the date of service hereof.

PRELIMINARY STATEMENT

1. In answering these Interrogatories and Requests for Production, furnish all information available to you, including information in the possession of your attorneys (and investigators, employees, experts, etc., retained by you and your attorneys), not merely information known of your own personal knowledge.

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2. If you cannot answer the following Interrogatories in full after exercising due diligence to secure the information to do so, answer to the extent possible, specify your inability to answer the remainder, and state whatever information and knowledge you have concerning the unanswered portion.

3. Your answers to the following Interrogatories are to be supplemented as additional information and knowledge becomes available to you pursuant to the Idaho Rules of Civil Procedure.

4. This Request includes all Documents in your possession or under your control, including Documents in the possession of your attorneys, accountants, expert witnesses or other agents or persons from whom you have a legal right to obtain such Document.

5. All responsive documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories of this request.

6. If, after responding to this request you acquire any Documents requested herein, or any information related to any Document herein, which is not reflected by any Documents produced or any response to these requests, you must file a supplemental response.

7. If any information which is requested herein is or will be withheld from production, inspection or copying (whether because it is claimed to be work product, communication from attorney to client, or is entitled to be withheld for any other reason) you shall make the claim expressly and shall describe the nature of the documents,

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communications, or things not produced or disclosed in a manner that will enable Mahoney to assess the applicability of the privilege or protection. In addition, if any document is practically impossible of production, inspection, or copying, please fully identify such document and the reason for the practical impossibility.

8. Mahoney requests that you serve answers to these interrogatories within fifteen (15) days of the date of service hereof. Mahoney further requests that you serve responses to these Requests for Production and produce each of the documents requested, or in the alternative provide copies of the documents requested, at the office of Givens Pursley LLP, 277 N. 6th Street, Boise, Idaho 83702 within fifteen (15) days of the date of service hereof.

DEFINITIONS

1. As used herein, the term "you" and "your" means Robert and/or Pamella Smolczynski, their agents, or any other of their representatives.

2. "Document" means and includes any and all tangible things and papers, whether written, recorded, graphic, typewritten, printed, photographed or otherwise produced or reproduced, and whether produced manually or by mechanical, electrical, electronic, other artificial process or a combination of these methods, including but not limited to papers, computer records and/or files, agreements, contracts, letters, cables, wires, notes, memoranda, correspondence, telegrams, patents, books, reports, studies, minutes, records, accounting books, maps, plans, blueprints, sketches, charts, drawings, diagrams, photographs, movies, films, videotapes, computer printouts, tape recordings, information

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stored on computers, assignments, notebooks, ledgers, bills, statements, invoices, checks, receipts, analyses, surveys, transcriptions, and recordings, of which you have any knowledge or information, referring, relating or pertaining in any way to the subject matters in connection with which the word is used. The term "Document" includes, without limitation, originals, all file copies, and all of the copies no matter how or by whom prepared and all drafts prepared in connection with such writings, whether used or not.

3. "Identify" when used with respect to a person means to provide such person's full name, occupation, mailing and physical address, and telephone number.

4. "Protest" means the Protest you filed to Permit 63-31218.

5. "Permit 63-31218" means the Application for Permit in the name of James E. Mahoney numbered 63-31218 to which you have filed a Protest.

6. "IDWR" means the Idaho Department of Water Resources.

INTERROGATORIES

INTERROGATORY 1: Please identify who provided the answers to these interrogatories.

INTERROGATORY 2: Do you intend to call any witnesses at the hearing in this matter? If so, please identify the witnesses you intend to call.

INTERROGATORY 3: Will any of your witnesses testify about scientific matters, including but not limited to hydrology or hydrogeology? If so, for each please identify:

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(1) the subject matter of the testimony;

(2) the education or experience that qualifies the witness as an expert; and

(3) the facts and opinions that he or she will testify to.

INTERROGATORY 4: Are you going to use any documents or exhibits at the hearing in this matter? If so, please describe the documents and exhibits you are going to use.

INTERROGATORY 5: For each water right that authorizes you to use water on your property, please identify:

(1) the water right number,

(2) the details of how you divert and use water pursuant to that right, including but not limited to the quantity of water used and when and where you use it, and

(3) any changes you or any previous owner of your property have made to the way water is used.

INTERROGATORY 6: Please identify each water right used on property you own that you contend is affected by the uses proposed in Permit 63-31218, and for each water right identify:

(1) how it is affected, and

(2) all facts that support your conclusion that it is affected.

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INTERROGATORY 7: Please identify all facts and documents that support the statement in your Protest that "ground water recharge may not be sufficient to mitigate the requested use" in Permit 63-31218.

INTERROGATORY 8: Please identify all facts and documents that support the statement in your Protest that "damage may occur to water rights and supplies within the immediate area" of the proposed water right.

INTERROGATORY 9: Please identify all facts and documents that support the statement in your Protest that no consumptive uses other than reinjection from heat pumps should be allowed during November 1st to April 30th each year.

INTERROGATORY 10: Please identify any additional facts or documents that support the conclusion that IDWR should deny or conditionally approve Permit 63-31218.

INTERROGATORY 11: Are there any conditions IDWR could include in Permit 63-31218 that would cause you to withdraw your Protest? If so, please identify what those conditions would be.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION 1: All documents you identified in your responses to Interrogatories 1 to 11 above.

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REQUEST FOR PRODUCTION 2: Any documents that support your contention that:

(1) Permit 63-31218 should be denied,

(2) Mahoney's pumping negatively affects your water rights, and/or

(3) the water supply for Mahoney's proposed water right is insufficient for the purposes for which it is sought to be appropriated.

REQUEST FOR PRODUCTION 3: All documents that describe or indicate how water is used on your property.

REQUEST FOR PRODUCTION 4: All documents reviewed and/or prepared by any witnesses identified in your response to Interrogatory No. 3 in forming his or her opinions relating to this matter.

Respectfully submitted this 6th day of July, 2001.

GIVENS PURSLEY LLP

Jeffrey C. Fereday

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Certificate of Service

I hereby certify that on this 11th day of July, 2001, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Robert and Pamella Smolczynski
75 Settlers Road
Idaho City, ID 83601

✓ U.S. Mail
_____ Hand Delivery
_____ Overnight
_____ Telecopy

Jeffrey C. Fereday

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Bozeman Chronicle

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Lookout YOUR SOURCE FOR BIG SKY NEWS

Another tale of a water-wasting home here

07/02/01

By Mr. and Mrs. Victor H. Hanson

We have a lot of empathy for the Sypes Canyon residents worried about Mr. Berman's lake.

We live just a bit south of the Bridger Canyon Stallion Station, across the road and up on the hillside. A few years ago the previous owner started to dig a large trout pond on the west side of the property. Well, he dug and dug and, of course, hit water. They set up a pump and piped the water from the pond to the pasture on the east side of their driveway. The pump ran day and night. The hole got bigger and bigger and soon they had covered the entire area west of their driveway with dumped excavated material. What had once been a beautiful view of a horse farm had been turned into a moonscape. Winter came along and they headed south for warmer climes. The next spring they were at it again. They sort of finished the pond and then a For Sale sign went up. I questioned a real estate agent about it and she said they told her they had encountered five springs in excavating the pond. The direct result of excavating this pond has been that the wells of two homes opposite the pond went dry and to this day are still marginal. Thank goodness the present owners of the farm are doing a wonderful job of correcting the previous owner's misdeeds.

Perhaps the Sypes Canyon residents can talk Mr. Berman into building a more neighborly desert-style rock garden instead of the planned pond/lake.

Mr. and Mrs. Victor H. Hanson

8653 Bridger Canyon Road

Bozeman

(406) 582-0067 - Victor Hanson

(406) 586-2840 - Don Brelsford

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Bozeman Chronicle

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List for action!
Buy with confidence!

New Sypes Canyon home flaunts its waste

of water 07/01/01
By Ellen Goff
It was with dismay and some amusement that I read the article in the At Home magazine about Peter Berman's new home on Sypes Canyon Road. He states that he is happy that he can build something without tearing something down, but he obviously does not consider that two years of bulldozing down the natural hills is tearing down anything.

I am a neighbor to Mr. Berman's "home" that is being constructed and was amused by his stated philosophy that he seeks to design his buildings so they fit perfectly in the context of their environment. When a structure 200 feet long, 60 feet wide, and 30 feet high is built and is made of reflective glass and white concrete, it can hardly be said to fit into the environment in an unobtrusive way. However, there is no accounting for people's tastes.

The construction of the pond is the part of the plan that causes me the most dismay. The environment around Sypes Canyon Road is not naturally an area of open water; therefore, making a trout pond of over an acre in size and 10 feet deep seems to me to be completely out of context. With families in the area who are finding their wells going dry, it seems an extravagance to use water just so you can pretend that you live on a peninsula. We know so little about the true water situation in our aquifers. I believe that we should treasure and conserve what water supplies we have and not use them for frivolous purposes.

Ellen B. Goff

8485 Sypes Canyon Road

Bozeman

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HIDDLESTON DRILLING & PUMP CO.
A Division of Hiddleston & Son, Inc.

Rt [redacted] Box 610-D
Mountain Home, ID 83647
(208) 587-9055
(208) 587-9816 Fax

Boise Office
2769 S. Cole Rd.
Boise, ID 83709
(208) 362-2900
(208) 362-9723

Invoice 4541

Invoice Date 08/07/00

Bill To:

Smolczynski, Pam
75 Settlers Rd
Boise, ID 83716

Ship To:

Smolczynski, Pam
75 Settlers Rd
Boise, ID 83716

Customer	Ship Via	F.O.B.	Terms
SMO201			Due Upon Receipt

Purchase Order Number	Salesperson	Order Date	Our Order Number
Verbal	RMO	08/07/00	1340

Quantity Ordered	Quantity Shipped / Back Ordered	Item Number / Item Description	Unit of Measure	Unit Price / Discount %	Tax	Extended Price
1	1	SEROUT	HOUR	125.00		125.00
	0	Service Call-Out Of Town			N	

9/06/00
pd.

-No problems found with our well.

Nontaxable Subtotal	125.00
Taxable Subtotal	0.00
Tax	0.00
Total Invoice	125.00

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Customer Original (Reprinted)

From: emahoney <emahoney@micron.com>
To: "'PAMELA SMOLCZYNSKI" <PSMOLCZY@DEQ.STATE.ID.US>
Date: Mon, Jul 24, 2000 1:57 PM
Subject: RE: speaking of neighbor's

I would be happy to hear from an expert on how aquifers work, and I think it would put people at ease if we can find one. Is there a hydrologist in the area?

But I don't believe there is a connection between the surface water (pond) and the ground water (wells). Water flows under ground (does not necessarily flow the same direction as the surface topology). So I suppose one could think that water seeping out of the bottom of a pond could flow into the ground water. But if you consider in the past there has not been any real replenishment of the pond water from any source - in spring there is snow melt and some spring water flowing down hill to the pond but there has never really been any fresh water flowing into the pond beyond early summer - then you have to wonder sealing or not sealing the pond has any real impact to our area ground water. Also, most wells are deeper than 90 feet in order to avoid having surface water mixed in.

So in the past, not much new water goes into the pond, and what does go into it seems to evaporate until it is pretty much a swamp. Now however, we have the means of adding water to it. Bringing water up from the ground water to the surface could have a negative impact on the amount of water remaining in the aquifer, but that is a confusing issue because the water flows directionally. As I understand it, it is not like each well is a straw sticking into an underground lake and sucking down the level of the lake. It is more like sticking a straw into a flowing river.

To answer your questions:

The second well runs sprinklers, and can be used to add water to the pond. Between those two uses we run it several hours a day, maybe 8 hours or so, but not continuously. We did run this same system off the house well last year. I am not convinced that the pond water we do lose is all to evaporation. It could be, but I do not think we have a "perfect seal" on the pond bottom. I see rising bubbles indicating springs or percolation is still active under there.

The heat pump is on the house well. It is an open loop system which discharges water into the pond. It has not been running much at all this summer.

I am not noticing any well performance changes between our 2 wells. If water levels were dropping, I would think we would see one or both of them having problems. The original is only about 150 feet down, the new one is 300. I actually believe they are on different underground flows.

Questions for you...
Have you ruled out problems with your pump or well set-up? Are the pressure tanks and pressure switch operating correctly? Have you checked the water filter for blockage?

How deep is your well? Last year we had to drop our pump about 40 feet because the static water level (level when not drawing any water) in that

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well dropped. When I asked my well guy what would cause that to drop his answer was nobody knows why some wells have their water go down, others dry up, and others are fine, all in the same area.

Are you working with any one? Who is doing Kevin Smith's well? I recommend Tony Hacket at SOS Well Drilling at 888-3610. I would insist on talking with Tony. You would want to tell him you have a well emergency and need some advice. Also, tell him I recommended him to you guys.

I wish you all the luck with this, obviously I am not comfortable with the notion that what I am doing with ground and surface water may be having a negative impact on surrounding neighbors. Let me know how I can help...Ed

-----Original Message-----
From: PAMELA SMOLCZYNSKI [mailto:PSMOLCZY@DEQ.STATE.ID.US]
Sent: Monday, July 24, 2000 10:21 AM
To: emahoney@micron.com
Subject: Re: speaking of neighbor's

Hi! Our water pressure has dropped substantially the last few days. Have you had any problems? We didn't have this problem last year. I am hoping it has nothing to do with sealing the pond (used to be a recharge area). Also, are you having to continuously fill the pond with the second well you had dug (to make up for evaporation)? Can you tell me a little about the amounts of water used for keeping the pond(s) filled? Also, is your heat pump discharging back to ground water?

i wouldn't ask, but our water is really down for some reason and I am just trying to find out why. Maybe it's something else besides lack of groundwater, I need to do some investigating. Rob's been out on that fire, so he hasn't been home to take a look at things. Appreciate the info.
thanks, Pam

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From: emahoney <emahoney@micron.com>
To: "'Pamela Smolczynski at Work'" <PSMOLCZY@DEQ.STATE...
Date: Fri, Jul 28, 2000 6:02 PM
Subject: Complaint on us at Water Resources

It appears we are both doing our homework and ending up talking to the same people recently. I spoke with a hydro geologist named Shane Bendixon and I spoke with an agent at Water Resources, Lori Graves, who coincidentally received an e-mail from you today.

I have learned quite a bit about what my rights to water are today, which don't amount to much. Evidently there is a moratorium on irrigation rights beyond what is considered domestic use, so I can't get a right to run sprinklers around the pond or any other part of my property. Also, to store water I need to have a storage permit, (unless our pond qualifies for "is a natural pond") and I don't have any right to add ground water to the pond. Also, the open loop system off the heat pumps is considered "consumptive" so I don't have a right to be doing that either. Even though the consumptive uses are for positive things like protecting my house with a green belt of vegetation and grass, keeping water levels up so the firemen have a water source, providing better wildlife habitat, providing an environment that is aesthetically pleasing for my family and neighborhood. It appears to be completely within my rights I would need to convert my open loop system to closed loop system, operate the pond only on spring water and run off (let it evaporate), let the green belt die.

What I learned from Shane is that they usually don't take these kinds of water rights violations seriously, unless someone files a complaint and then they have to. I also learned from him that the GPM I'm pumping to sprinklers and the pond are relatively small compared to the kinds of consumptive problems they usually deal with. He also told me that even though I am pumping that much for 8 hours a day, that leaves 16 hours per day for the system to recharge, which should minimize the effect the "cone of depression" would have on surrounding wells, especially ones that are considerable distances apart.

He also told me that in his experience, they usually don't get complaints until someone thinks they have a problem in their well caused by someone else. Also, in his experience, most problems discovered with a problem well are related to the well itself and NOT the ground water. Things like a 250 foot well with 20 feet of casing then some portion of the wall below the casing caves in. Shane said he sees a lot of these well situations end up in court when it would have been way cheaper for everyone to work together on a solution. Almost always a well problem can be solved by improving the well, lowering the pump, adding more casing, etc. That's what I was thinking anyway, since I don't enjoy the prospect of going out and finding a water rights attorney.

It does not appear we are going to get the chance to work on a solution before it starts getting difficult with the State department of water resources. I am not sure if you are aware that it would be taken this way, but your e-mail to Lori Graves is considered a complaint. She is already bowing out and turning me over to her supervisor and I am facing, well I don't know what I'm facing. I suppose I will have to shut everything down, and I remain unconvinced that any of the consumptive uses that I am have anything to do with your well's problems, so I don't see how that solves

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your well problem.

My ideal scenario would have been to have an expert come and give us analysis on the direction of the groundwater flow and whether or not my wells are likely doing anything up the hill towards you guys and Kevin and Debbie. Shane told me that if we could give him access to at least 3 wells that form a triangular pattern he would be able to tell us, although his boss might not support him spending time on something like this.

Now knowing that cause and effect of your well problem are not the issue as far as the state is concerned, knowing the direction of the groundwater flow and static water levels does nothing to help me establish the water rights I am looking for. So that is a waste of time except for what it would do for my conscience.

Well, let me know what you learn about your well, and I'll let you know how it turns out with water resources, who I speak with again on Monday.

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From: PAMELA SMOLCZYNSKI
To: lgraves@idwr.state.id.us
Subject: Water level dropping in my well....

Hi Lori. I left you a voice mail, but thought I'd follow up with an email. Here is all the information I have on my problem. Hope you can help.

It appears that our water level is dropping in our well. I had a plumber look at the above ground system (i.e. pressure tank, etc.) it all appears operational. The pump (down 250 feet according to Water Resources website) is having a hard time pumping water up now. I need to call a well driller type person to come take a look. Our well is only under two years old, and we have had plenty of water until now. The low pressure accompanied by some sandy grit has made me more than nervous. We don't use much water at all, just two people, one bath, three dogs and two horses with no lawn or irrigation use. I live in Clear Creek (up highway 21) in the mountains.

I emailed my neighbor, to see if his water usage may be contributing to our problem. He has a 7,500 square foot home that is heated (and I believe cooled) utilizing a heat pump. Upon inquiry, I found out that his heat pump does NOT re-inject into the ground water but rather is diverted out to his pond (open-loop). When I had inquired about 1.5 years ago - during the installation, I was told that is would be a closed loop because these systems use vast amounts of water.

His pond was a natural one, about ten acres in size (rough est.), and nearly drained dry by mid-August. Last fall, he had the entire pond excavated deeper and bentonite-sealed the whole natural recharge system. He then used his own well to replenish the pond, water his landscaped yard, and run his heat pump. He had to drop his pump another 40 feet last year because the static water level dropped. He then had another well drilled in addition to support this water usage.

His second well is 300 feet deep and pumps 60 gal. / min (according to the website). He told me that he runs this pump about 8 hours a day (not all at once) to keep his pond full and his lawn green.

Here is the information to check both our well and his in your files:

Rob Smolczynski	Ed Mahoney
75 Settlers Road	xx Settlers Road
Boise, ID 83716	Boise, ID 83716
05N 04E Sec. 33	05N 04E Sec. 32
drill date: 10/16/98	drill dates: 10/06/97 and 10/23/99

I am very concerned that our neighbor's clearly excessive water consumption is compromising our ability to take showers and drink our water. I have asked some hydrogeologist's opinion here at DEQ, and they have agreed that this scenario sounds like a problem.

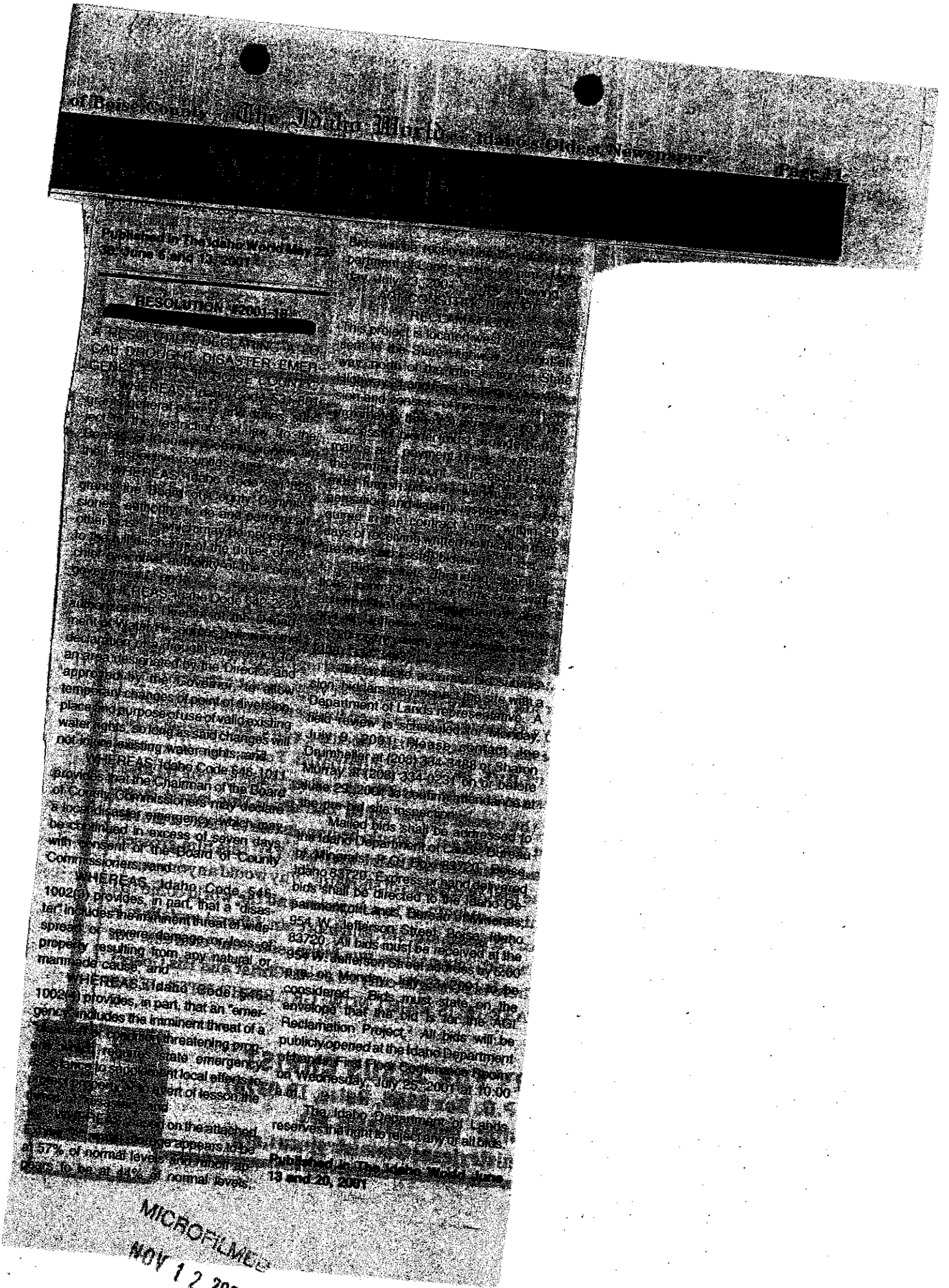
I don't mean to cause my neighbor problems, but I will probably need to have my well deepened, and that will cost plenty for us. I am afraid that continual excessive use will cause lasting problems to our water system. Another neighbor will be drilling in between us (both of them upgradient of groundwater flows to us) in the next month or less.

Please give me a call, I sure to appreciate any help / research, etc. Pam
Work: 373-0461

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You can get Copies of these from the Forest Service.

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of Boise County The Idaho World Idaho's Oldest Newspaper

Published in The Idaho World May 23, June 6 and 13, 2001

RESOLUTION #2001-18

A RESOLUTION DECLARING A NON-CAP DROUGHT DISASTER EMERGENCY IN BOISE COUNTY

WHEREAS, Idaho Code Section 46-1011 provides that the Chairman of the Board of County Commissioners may declare a local disaster emergency which may be extended in excess of seven days with consent of the Board of County Commissioners; and

WHEREAS, Idaho Code, 46-1002(d) provides, in part, that a "disaster" includes the imminent threat of widespread or severe damage, injury or loss of person or property resulting from any natural or manmade cause; and

WHEREAS, Idaho Code, 46-1002(c) provides, in part, that an "emergency" includes the imminent threat of a [illegible] threatening property [illegible] state emergency [illegible] local effects [illegible] property of a part of lesson the [illegible]

WHEREAS, based on the attached [illegible] appears [illegible] of 57% of normal levels and [illegible] 2002 to be at 44% of normal levels.

Bid must be received by the Idaho Department of Lands [illegible] July 23, 2001, for the following [illegible]

DESCRIPTION

This project is located west [illegible] from the State highway 21 [illegible] way north of the [illegible] Shafer Butte [illegible] Boise County, Idaho. [illegible] Mountain, [illegible] 20 miles [illegible] Boise, Idaho.

[illegible] sion, bidders may [illegible] Department of Lands representative. A field review is scheduled [illegible] July 9, 2001. Please contact Joe Dumpleton at (208) 334-3488 or Sharon Murray at (208) 334-0231 on or before July 20, 2001 to confirm attendance at the pre-bid site inspection.

Mailed bids shall be addressed to the Idaho Department of Lands, Bureau of Minerals, P.O. Box 83720, Boise, Idaho 83720. Express or hand delivered bids shall be directed to the Idaho Department of Lands, Bureau of Minerals, 954 W. Jefferson Street, Boise, Idaho 83720. All bids must be received at the office on Monday, July 23, 2001 to be considered. Bids must state on the envelope that the bid is for the "Reclamation Project." All bids will be publicly opened at the Idaho Department of Lands, First Floor Conference Room, on Wednesday, July 25, 2001 at 10:00 a.m.

The Idaho Department of Lands reserves the right to reject any or all bids.

Published in The Idaho World June 13 and 20, 2001

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640 acres = 20 acres
27,878,400 sq ft X sq. ft.

871,200 sq. ft. = 20 acres

5.6146 ft^3 = 1 barrel

7758 barrels in One Acre Feet

7758 barrels = X ≈ 155,160 Barrels in 20 acres
1 acre 20 acres

Gallons water used in 20 acre/1 foot year: 6,516,720 gallons

That is 17,854 gallons per day

Idaho City Water Supply Is Sufficient.... For Now

by Betsy Hill

IDAHO CITY. At the June 13th meeting of the City Council of Idaho City, Mayor Phillip Canody reported to the council that the city water supply is "holding its own pretty well." He said that the city pumps an average of 130,000 gallons on weekdays and 190,000 on weekend days. Canody predicted that alternate day watering will start soon. He said that people have been doing a pretty good job conserving water and urged residents to keep it up. He said that the city has received permission to do minor damming work on Elk Creek and that it will be the same thing the city did last year.

Parks Committee Chairman Roger Lewis told the mayor and council about a meeting he had with the Idaho Department of Transportation regarding requirements for the new Basin Community Park northeast of town. "Something's come up," he said. "The first major roadblock in park construction." He explained that the Transportation Department had told him that a six foot tall chain link fence would be needed on both sides of the highway to eliminate multiple spots where people might cross the road, as well as a widening of Highway 21 for a turn lane. Councilwoman Marie Marks said that while safety concerns do exist, she hoped that other options could be explored. The parks commission will look into other options and report back to the council.

The council discussed a request from Boise County to begin talking about the possibility of the city donating the EMT/Community Justice building to the county. The council agreed that the city needs the revenue from the lease of the building at this point. They indicated that they might look at the idea again in 2003, when the county's lease expires.

RECEIVED AUG 12 2002

Chris Duncan - Water Resources Agent 334-2190

From: PAMELA SMOLCZYNSKI
To: "emahoney@micron.com"@DEQ.INTERNET
Date: Thu, Apr 26, 2001 9:42 AM
Subject: Re: RE: RE: Question from a neighbor...

Thanks Ed. I need more information to understand all of this. Maybe we should meet sometime and discuss. I have to finish the Fire Department grant application tonight and get it in the mail tomorrow. I also have the meeting Saturday morning and we've got some things planned for the weekend. Perhaps we could meet next week sometime after work, or go to lunch some place in town? Honestly, I am concerned about large volumes of water being pumped out and not replenished. Here's some of my initial questions, if you would rather just respond to email, or if you are too busy to meet.

1) Would all of the heat pump water be re-injected all of the time?

When I read the permit application - it looked like the heat pump would continue to discharge to surface water, except sometimes in the winter.

2) How much water exactly, would be used to keep filling the pond and irrigation? (how many gallons per day?) What are the current dimensions of your pond? How much water, exactly, is your permit requesting?

3) I'd like to review the hydro geologic reports that have been performed.

I am being up-front with you on this. I wish I wasn't worried about future impacts, I wish somebody could give me a guarantee that this won't affect our water in the future. Are you at all worried that you might deplete the water available in say, 5 years - or who knows? If your water source is a "somewhat independent" pocket of water trapped in the basalt, it would provide a finite amount of water available. Seems like working out some sort of minimal amounts that are needed, to keep your reserves sustainable, would be in your best interest in the long haul. I am saying so your property doesn't turn into dry, unusable land. Would our property be affected first, and serve as an indicator - because of conical depression effects?

How does this draw (on the water) affect us neighbors to the east? I feel like Rob and I need to protect our future rights to the groundwater, and if we don't protest, we won't have any case to make if our property turns into unusable land with no water later down the road. But mostly, we want assurance that our land WON'T turn into unusable land down the road because of your water consumption. I am not sure anyone can give us that assurance.

That's is for now, talk to you later, Pam

>>> emahoney <emahoney@micron.com> 04/26 7:19 AM >>>
Sorry, I've been trying to prepare for a presentation and have not been too diligent on e-mail, and admit I might be a little tense this week. I appreciate the heads up.

The landscapers are here this week fixing the valve that will start up the injection process. I'll let you know when that is *finally* going. I expect the injection to address any concerns that Water Resources may have about consumptive use by our heat pumps, since it won't be consumptive use any more.

You may recall from the annual meeting of TMROA when I gave the update that I have applied for a water right for irrigation around the pond and between the pond and the house, for fire fighting storage, for wildlife and aesthetics of the pond. In order to make it easier for Water Resources to

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justify approving the application, I have purchased equivalent amount of water rights from a person on the Boise river who is willing to 'dry up' the land formerly covered by those rights. Him drying it up is not an issue because it already is slated not be farmed or developed - he sold the land to Monroc. We are calling these purchased & retired water rights "mitigation" rights. WR like these because it takes water rights permanently out of circulation in the valley.

Anyway, the application also states that the pumping from our wells is not adversely affecting any of the area properties. Take this example with Francis. His property is west of Ed Cook's property. In the well study we did, Ed Cook's well actually had a static water level 5 feet higher than when it was originally drilled , giving no indication that 2 years of well activity on our land is causing any problems to the west. The same is true for North of us, Jack's well is at a level higher than when it was drilled. Terry's analysis of the geology and wells of our area (from what I can tell as a layman) is that unlike aquifers like in the treasure valley, we are all drawing off of water trapped in somewhat independent pockets caught in the underground basalt. "Somewhat independent" is a conclusion drawn by looking at the different elevations all the wells in this area are drawing their water from.

Yes, my understanding of the process is that there is a period of time where an opportunity to "protest" the water right application occurs. I would not be surprised if you received information on this application because of your earlier contacts with WR. It would be my preference (easier) that if you have ongoing concerns about our well activity that we try to address them in advance of some sort of protest action with WR, not that I think you would protest but certainly a surprise at this stage would cause a hitch in the process.

-----Original Message-----
From: PAMELA SMOLCZYNSKI [mailto:PSMOLCZY@DEQ.STATE.ID.US]
Sent: Wednesday, April 25, 2001 8:36 AM
To: emahoney@micron.com
Subject: Re: RE: Question from a neighbor...

I don't know either, just thought I'd let you know too.

>>> emahoney <emahoney@micron.com> 04/24 10:18 PM >>>
I don't get the connection between his ditch and my water situation.

-----Original Message-----
From: PAMELA SMOLCZYNSKI [mailto:PSMOLCZY@DEQ.STATE.ID.US]
Sent: Tuesday, April 24, 2001 4:29 PM
To: emahoney@micron.net
Subject: Question from a neighbor...

Francis Magnum called me the other day regarding his irrigation ditch - or rather lack of water in his ditch. He had heard "through the grapevine" that I knew something about your water situation. I told him a bit about it, and that you were planning to start re-injecting the water now with the thaw.

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Gates' mansion racked up $24,828 water bill in 2000

Billionaire vows to look at ways to conserve

The Associated Press

SEATTLE — Microsoft billionaire Bill Gates' mansion went through a whopping 4.7 million gallons of water last year — nearly 60 times the consumption of a typical homeowner in thirsty Seattle, and enough to flood his 5-acre estate nearly 3 feet deep.

Gates' home — which includes a 60-foot pool, sauna and indoor-outdoor spa — racked up a $24,828 water bill for 2000, The Seattle Times reported. He was the area's top residential water consumer.

The Seattle Public Utilities figures, released under a public-records request by The Times, show the median household uses about 80,000 gallons of water per year.



Bill Gates

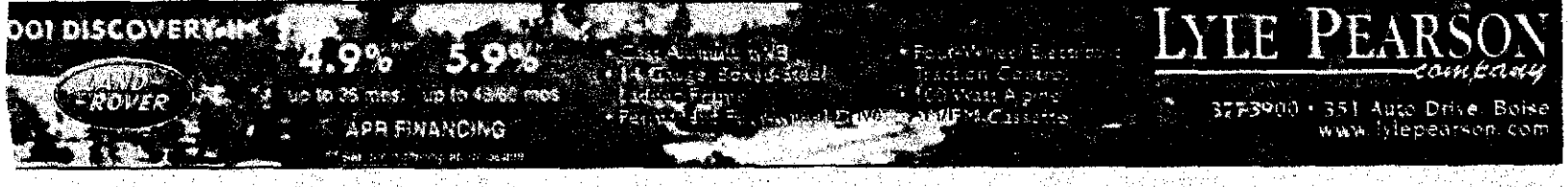
Groundskeepers at Gates' $109 million Medina home say they suspect most of the water went to irrigation and the home's heating and cooling system, family spokesman Trevor Neilson said Friday.

"When they were made aware of the problem, Bill and Melinda were very surprised and very concerned," he said. "Immediately, they asked the staff to look into the cause of the high level of water use."

Neilson said Gates often uses his home for conferences and other large gatherings.

Gov. Gary Locke declared a drought emergency last month. Seattle Public Utilities has asked residents to reduce water use by 10 percent.

The top water user in Seattle proper is aeronautical engineer James Raisbeck, whose 100-year-old home last year went through 1.89 million gallons of water, which is 23 times more than the median household.



28% Less Water Used by Gates when Compared to Mahoney

RINGERT
CLARK
CHARTERED
LAWYERS

Laura F. Burri
Jeffrey R. Christenson
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
Patrick D. Furey
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
William F. Ringert
Daniel V. Steenson
Allyn L. Sweeney

Samuel Kaufman (1921-1986)

July 26, 2001

Mr. Gary Spackman
Regional Manager
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

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JUL 27 2001
WATER RESOURCES
WESTERN REGION

Re: Mahoney domestic use of water.

Dear Gary:

As you are aware, this law firm represents Francis and Shirley Mangum with respect to their water right matters. I write this letter on behalf of my clients to request that IDWR enforce James E. Mahoney's use of water under his domestic water right water right pursuant to its authority under I.C. § 42-351.

After pumping irrigation water from his wells for some time without a valid water right, Mr. Mahoney filed his application for permit no. 63-31218 with IDWR on March 23, 2001. This application was protested by my clients, and by several other individuals owning neighboring properties. Through their protest, my clients requested that IDWR curtail Mr. Mahoney's illegal pumping of water. Lori Graves' May 18, 2001 letter to Mr. Mahoney requested that he curtail his diversion and notify IDWR of his plans to remain within his domestic limitation of 13,000 gallons per day. Mr. Mahoney's May 25, 2001 reply to Ms. Graves stated that he would limit his diversions to less than 13,000 gallons per day, but did not state that he would limit the combined area of his irrigated property and his pond to less than ½ acre as is required by I.C. §42-111, and as has been enforced by IDWR with respect to other domestic water right users.

In fact, the combined size of Mr. Mahoney's irrigated areas and his pond clearly exceed th ½ acre limitation of I.C. §42-111 as is established by the enclosed photo of Mr. Mahoney's property, and by Mr. Mahoney's admissions at the prehearing conference on July 2, 2001. Because my client believes that Mr. Mahoney's pumping is reducing the spring flows from which his water right is diverted, he hereby requests that IDWR immediately curtail Mr. Mahoney's use of water such that Mr. Mahoney's use remains within the parameters of I.C. §42-111; and also requests that IDWR monitor Mr. Mahoney's use to ensure continued compliance with the law.

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NOV 12 2002

Please contact me with any questions or concerns.

Sincerely,

Charles L. Honsinger

enclosure

cc: Francis Mangum
Jeff Fereday
Roger Braun
Debra Bourley
Pam Smolczynski
Rex Lanham

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2002

Name (

KEVIN SMITH +/or Debra Borley

Street,

70 SETTLERS RD

BOISE ID 83716

City, St

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ROBERT SMOLCZYNSKI
75 SETTLERS RD
BOISE ID 83716

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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	**$ 3 94**

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Name

Street,

City, St

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

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REX LANHAM
2630 HWY 21
BOISE ID 83716

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NOV 12 2012

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JEFFREY FEREDAY ESQ
PO BOX 2720

City

BOISE ID 83701

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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3 94

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Na
Str
Cit

FRANCIS &/OR SHIRLEY MANGUM
C/O CHARLES HONSINGER
PO BOX 2773
BOISE ID 83701-2773

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JEFFREY FEREDAY ESQ
PO BOX 2720
BOISE ID 83701

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* — B. Date of Delivery
JOSHUA S. FRATE 26 2001

C. Signature
X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

MICRO

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

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2264 0581

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WATER RESOURCES
WESTERN REGION

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DEPARTMENT OF WATER RESOURCES
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1. Article Addressed to:

FRANCIS &/OR SHIRLEY MANGUM
C/O CHARLES HONSINGER
PO BOX 2773
BOISE ID 83701-2773

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A. Received by *(Please Print Clearly)* Kathe Moser

B. Date of Delivery JUL 26 2001

C. Signature

X Kathe Moser

☐ Agent
☐ Addressee

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If YES, enter delivery address below: ☐ No

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☐ Registered ☑ Return Receipt for Merchandise
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DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

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1. Article Addressed to:

ROBERT SMOLCZYNSKI
75 SETTLERS RD
BOISE ID 83716

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Pam Smolczynski B. Date of Delivery 4/27

C. Signature ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☑ Yes
If YES, enter delivery address below: ☐ No

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DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

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1. Article Addressed to:

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* JAMES E MAHONEY B. Date of Delivery 7-26-01

C. Signature X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
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☐ Registered ☑ Return Receipt for Merchandise
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DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

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1. Article Addressed to:

KEVIN SMITH +/or Debra Bailey
70 SETTLERS RD
BOISE ID 83716

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SEP 12 2002

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Kevin D Smith
B. Date of Delivery 7-26-01

C. Signature
X Kevin D Smith
☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

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2264 0536

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JUL 27 2001

WATER RESOURCES
WESTERN REGION

JUL 27 2001

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

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IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 Airport Way
Boise, Idaho 83705-5082

RETURN SERVICE REQUESTED



7/23/01 Notice of Hearing - Cert. Mailing Cards

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	))))	**NOTICE OF HEARING**

On March 23, 2001, James E. Mahoney filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Robert &/or Pamella Smolczynski; Kevin D. Smith &/or Debra Borley; Rex Lanham; and Francis &/or Shirley Mangum. The pre-hearing conference held by IDWR on Wednesday, June 14, 2000, did not resolve the matter of protest.

The Department has scheduled the matter for hearing on **Monday, November 5, 2001, at 10:00 a.m. and Tuesday, November 6, 2001, at 9:00 a.m. at the Idaho Department of Water Resources, conference rooms A & B, 1301 N. Orchard, Boise, Idaho 83706.** The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of Procedure of the Department. A copy of the rules may be obtained from the IDWR upon request. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01.606 requires that you provide a copy of exhibits to each party and to the presiding officer.

Notice is given that discovery should be completed by Monday, September 17, 2001.

The hearing will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 23rd day of July, 2001.

Gary Spackman

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AUG 1 2 2002

CERTIFICATE OF MAILING

I hereby certify that on the 24th day of July, 2001, I mailed a true and correct copy, postage prepaid, of the Notice of Hearing to the applicant(s) and protestant(s) listed:

Sue Taylor
Senior Secretary

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

ROBERT &/OR PAMELLA SMOLCZYNSKI
75 SETTLERS RD
BOISE ID 83716

KEVIN SMITH &/OR DEBRA BORLEY
70 SETTLERS RD
BOISE ID 83716

REX LANHAM
2630 HWY 21
BOISE ID 83716

FRANCIS &/OR SHIRLEY MANGUM
C/O CHARLES HONSINGER
PO BOX 2773
BOISE ID 83701-2773

JEFFREY FEREDAY ESQ
PO BOX 2720
BOISE ID 83701

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2001 JUL 27 AM 8:12

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1) Will the proposed appropriation injure other water rights?

2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?

3) Was the application made in good faith or for delay or speculative purposes?

4) Does the applicant have sufficient financial resources with which to complete the proposed project?

5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

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CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

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WATER RESOURCES
WESTERN REGION

Jeffrey C. Fereday ISB # 2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701
Telephone Number: (208) 388-1200
Facsimile: (208) 388-1300
GENIE.SYS:DATA:CLIENTS:3915:46:Discovery:Notice of service

Attorneys for James E. Mahoney

RECEIVED
JUL - 9 2001
Department of Water Resources

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218, JAMES E. MAHONEY	**NOTICE OF SERVICE OF DISCOVERY TO ROBERT & PAMELLA SMOLCZYNSKI**

James E. Mahoney ("Mahoney") by and through his attorneys of record, Jeffrey C. Fereday and John M. Marshall of the firm Givens Pursley LLP, and pursuant to the Idaho Rules of Civil Procedure, hereby notifies IDWR and all parties that on this date Mahoney's First Set of Interrogatories, Requests for Production were served on Robert and Pamella Smolczynski.

DATED this 6th day of July, 2001.

Givens Pursley LLP

Jeffrey C. Fereday

MICROFILMED
NOV 1 1 2002

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this _____ day of July 2001, I caused a true and accurate copy of the above and within NOTICE OF SERVICE to be served by method to the following.

Director Idaho Department of Water Resources 1301 N. Orchard Street Boise, ID 83706	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Rex Lanham 2630 Highway 21 Boise, ID 83716	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Francis & Shirley Mangum c/o Charlie Honsinger, Esq. Ringert & Clark Chtd. 455 S. 3rd St. P.O. Box 2773 Boise, ID 83701-2773	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Kevin Smith and Debra Borley 70 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Robert & Pamella Smolczynski 75 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile

Jeffrey C. Fereday

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NOV 1 2 2001

Jeffrey C. Fereday ISB # 2719
John M. Marshall ISB #5628
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Attorneys for James E. Mahoney

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Department of Water Resources

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218, JAMES E. MAHONEY	**NOTICE OF SERVICE OF DISCOVERY TO REX LANHAM**

James E. Mahoney ("Mahoney") by and through his attorneys of record, Jeffrey C. Fereday and John M. Marshall of the firm Givens Pursley LLP, and pursuant to the Idaho Rules of Civil Procedure, hereby notifies IDWR and all parties that on this date Mahoney's First Set of Interrogatories, Requests for Production were served on Rex Lanham.

DATED this 6th day of July, 2001.

Givens Pursley LLP

Jeffrey C. Fereday

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JUL 12 2001

CERTIFICATE OF MAILING

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Robert & Pamella Smolczynski 75 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓_Via U.S. Mail _____Via Fed-X _____Via Facsimile

Jeffrey C. Fereday

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Jeffrey C. Fereday ISB # 2719
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Attorneys for James E. Mahoney

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JUL - 9 2001
Department of Water Resources

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218, JAMES E. MAHONEY	**NOTICE OF SERVICE OF DISCOVERY TO KEVIN SMITH AND DEBRA BORLEY**

James E. Mahoney ("Mahoney") by and through his attorneys of record, Jeffrey C. Fereday and John M. Marshall of the firm Givens Pursley LLP, and pursuant to the Idaho Rules of Civil Procedure, hereby notifies IDWR and all parties that on this date Mahoney's First Set of Interrogatories, Requests for Production were served on Kevin Smith and Debra Borley.

DATED this 6th day of July, 2001.

Givens Pursley LLP

Jeffrey C. Fereday

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JUL 12 2001

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of July 2001, I caused a true and accurate copy of the above and within NOTICE OF SERVICE to be served by method to the following.

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Kevin Smith and Debra Borley 70 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Robert & Pamella Smolczynski 75 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile

Jeffrey C. Fereday

Jeffrey C. Fereday

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JUL 12 2002

Jeffrey C. Fereday ISB # 2719
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Department of Water Resources

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218, JAMES E. MAHONEY	**NOTICE OF SERVICE OF DISCOVERY TO FRANCIS AND SHIRLEY MANGUM**

James E. Mahoney ("Mahoney") by and through his attorneys of record, Jeffrey C. Fereday and John M. Marshall of the firm Givens Pursley LLP, and pursuant to the Idaho Rules of Civil Procedure, hereby notifies IDWR and all parties that on this date Mahoney's First Set of Interrogatories, Requests for Production were served on Francis and Shirley Mangum.

DATED this 6th day of July, 2001.

Givens Pursley LLP

Jeffrey C. Fereday

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of July 2001, I caused a true and accurate copy of the above and within NOTICE OF SERVICE to be served by method to the following.

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Francis & Shirley Mangum c/o Charlie Honsinger, Esq. Ringert & Clark Chtd. 455 S. 3rd St. P.O. Box 2773 Boise, ID 83701-2773	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Kevin Smith and Debra Borley 70 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile
Robert & Pamella Smolczynski 75 Settlers Rd. Idaho City, ID 83601	_____Via Hand Delivery __✓__Via U.S. Mail _____Via Fed-X _____Via Facsimile

Jeffrey C. Fereday

Jeffrey C. Fereday

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NOV 1 2002

MEMORANDUM

TO: Gary Spackman

CC: Lori Graves

FROM: Steve Lester

DATE: July 6, 2001

RE : ***Mahoney Application for Permit No. 63-31218***

Lori Graves and I conducted the prehearing conference on July 2, 2001. All parties attended except protestant Rex Lanham, who telephoned the office earlier that day to say he could not make it ("watering my cows"). Attorney Fereday and consultant Scanlan were present with the applicant. Attorney Honsinger represented protestant Mangum. Honsinger said Mangum hired a technical consultant who was not present. The other protestants did not have attorneys or experts.

A lot of good discussion ensued but protests were not resolved. The parties want to schedule a two day hearing as soon as possible. Possible hearing dates include September 25-27, the first half of October or November 1-16. September or November sounded better than October for most people. The parties prefer Boise for the hearing site.

The parties agreed that discovery should be completed by mid September. Assuming a 15 day written response period, oral and written discovery should wrap up by the end of August, allowing September 1-15 for written responses.

The applicant is concerned about the status of Lanham due to his absence.

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ROSTER OF ATTENDANCE

IDAHO DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY, BOISE, IDAHO 83705

Re: **Application for Permit No. 63-31218 in the Name of James E. Mahoney**

Place: **IDWR Western Region, 2735 Airport Wy, Boise, Idaho 83705**

Date: **July 2, 2001**

Conducted by: **Steve Lester**

NAME	ADDRESS
Debra A. Borley	70 Settlers Rd Boise 83716
Pam Smolczynski	75 Settlers Rd. Boise, 83716
Terry Scanlan (for Mahoney)	600 E River Park Lane #105 Boise 06
James E. Mahoney	53 Settlers Rd Boise, 83716
Jeff Fereday	Box 2720 Boise 83701 (rep'g applicant)
Francis Mangum	17 Old Mill Rd. Boise 83716
Charles L. Honsinger	Box 2773 Boise, 83701 (Rep'g Mangum)
Lui Bueno	IDWR

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Prehearing Conference 63-31218 7/2/01 -82

Attorneys

Feraday for Appl.
Hinojosa for Mangum (protestant)

Pro se

Protestants Burley & Smolczynski

Not present

protestant ~~Scott~~ Lanham - left phone msg. 4 Cs earlier today, can't make it due to "getting water to my cows."

Applicant

2 wells 6" + 8"
possible injection?
natural pond enhanced w/ well water
now use < 13k gld per Iowa letter
seen measuring wells in area < 1 yr.

follow up noticed & possible injection well permit

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2001 12 2002

Mangum

Spring < 1/4 mi away, good flow several decades
irr < 14 Acres, pasture
can't irr since last summer Conly < 5 gpm now
significant decline in flow 15 noticed July 2000
wants flow restored & continue historical b.u.

Debra Bartley

2 d/i wells @ 2000
@ 1/4 mi. ± from Mahoney wells
concern @ compensation if injured
OK so far but normal & future
suggests test once/month to see if static flow
remains ≤ 15' ... will Mahoney stop pumping
if flow > 15'?

Pam Smolczynski

d/i well @ 4 yrs old
1/4 - 1/2 mile down gradient from Mahoney
last August pumped sand
dropped 27-30' in last yr. (static)

Bartley + Smolczynski both concerned @ next step if
injury to their d/i wells.

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Q+A

Stanton 2 handouts
8/28/00 Report @ well interference
6/25/01 water level measurements @ wells

Fall '98 Mahoney hired pond with bentonite - did
spring flow ~~[illegible]~~ problem start w/ this?

discussed several appl. issues, procedural questions @
hearing, depositions etc. (discovery), who has what
role in hearing.

Mangum presented re y Mahoney home + pond.

Dismissal 42-111 q.w. exemption ... what role - if any - pond plays in D/I limits ... GRAY AREA of law.

Parties to work on site visits + possible measurements to help sort out problems.

Hearing requested by applicant sooner rather than later.

Assume hearing late summer/early fall ...
all discovery concluded by 9/15 so 15 days response to discovery c 9/1 - 9/15.

Possible hearing dates
Appl. - last week Sept. OK
1st 1/2 Oct. OK
Mangum - mid 3 days last wk. Sept OK
1st 1/2 Oct. maybe
others - all OK

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if needed: November ~~prior~~ prior to wk of Thanksgiving looks OK.

Lakeham's status since missed conference?

Received from Protestant Mangum at prehearing conference -JL

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SCANLAN ENGINEERING

Groundwater and Environmental Engineering

Received at prehearing conference 1-82

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AUG 31 2000
Givens Pursley, LLP

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JUL 02 2001
WATER RESOURCES
WESTERN REGION

August 28, 2000

Jeff Fereday
Givens Pursley LLP
P.O. Box 2720
Boise, ID 83701

Subject: Investigation of Groundwater Conditions and Well Interference for Ed Mahoney

Dear Jeff:

This letter presents the results of my groundwater investigation conducted for Ed Mahoney at his property near Clear Creek. The investigation was conducted to determine if groundwater pumping by Mahoney is adversely impacting a well owned by Rob and Pam Smolczynski. The investigation found no indication of interference between the Mahoney and Smolczynski wells. Pumping by Mahoney has caused water-level drawdown beneath his property, but there is no evidence to suggest that his pumping has impacted other wells. Details of the investigation follow.

Scope of Work

The investigation has included the following work items.

1. Review of local geologic information.
2. Review of local well logs.
3. Measurement of static water levels in local wells.
4. Pumping test of Smolczynski well.

Location

The Mahoney property is located in the Timber Mountain Ranch subdivision, approximately 1.5 miles south of the Clear Creek Store, within the South Fork of Clear Creek drainage. The property consists of approximately 38 acres, and includes a main house and a guesthouse, both with water-to-air heat pumps. Figure 1 shows the approximate location of the Mahoney home and also the location of some neighboring homes.

A natural pond of approximately 2 to 3 acres size is located adjacent to the home. The pond apparently is a shallow, undrained depression that in the past fluctuated in size and depth seasonally. Pond level is currently maintained in a full condition by adding groundwater from wells.

600 East River Park Lane, Suite 105
Boise, Idaho 83706

Telephone (208) 383-4140
Facsimile (208) 383-4156

Existing Mahoney Water Use

Two wells are utilized on the property. A 6-inch well at the house is used for domestic purposes. This well also supplies heat pumps for both houses. The heat pump water is currently discharged to the pond. An 8-inch well is used for landscape irrigation and pond level maintenance. Logs for these wells are provided in Appendix A.

Calculations supplied by Mahoney indicate that heat pump water usage from the 6-inch well is approximately 10 acre feet annually. This water is allowed to flow into the pond, where it helps maintain the pond level. Additional pond-level maintenance water, totaling an estimated 9 acre feet annually, is added from the 8-inch well. The 8-inch well also supplies water for an estimated 1.5 acres of landscape irrigation. Landscape irrigation water use is estimated at 6 acre feet annually. In-home domestic water use probably amounts to one acre foot or less annually. Thus, groundwater production is estimated at approximately 26 acre feet annually.

Of the estimated 26 acre feet annually produced, only a portion is consumptively used. Consumptive use results from evapotranspiration from landscape irrigation and from evaporation from the pond surface. Evapotranspiration in the Timber Mountain Ranch area is probably less than 3 feet annually. Lake surface evaporation is also 3 feet or less annually. Assuming 1.5 acres of landscape irrigation and 2 acres of pond surface, total consumptive use of groundwater is approximately 10 acre feet annually. Unconsumed water returns to the groundwater system through lake bed seepage, infiltration of excess irrigation, or infiltration from the septic tank drain field.

Local Geology

Local geology is described in "Geology of the Boise Basin Vicinity, Boise, Ada, and Elmore Counties, Idaho (1997, Kiilsgaard, T.H., T.M. Scanlan, and D.E. Stewart, Idaho Geological Survey Map No. 7) and in "Geology and Landslide Hazards of the Dunnigan Creek 7.5-Minute Quadrangle, Boise County, Idaho" (Scanlan, T.M., 1986, unpublished University of Idaho M.S. Thesis). The Clear Creek drainage is underlain primarily by Cretaceous-age granodiorite of the Idaho Batholith with interspersed with dikes of younger intrusive rock (quartz monzodiorite, leucocratic granite, rhyolite, basalt, etc.). In the vicinity of the Timber Mountain Ranch subdivision, the batholith rock is overlain in many areas by interbedded Miocene-age lake-bed sediments of the Payette Formation and basalt of the Columbia River Group. Well log descriptions are not clear, but suggest that the sediments and basalt may extend to depths of more than 100 feet. (In some cases, materials described on the well logs as "decomposed granite" is probably angular sand sediment of the Payette Formation). Whether Payette Formation or decomposed granite, the logs suggest relatively low permeability because most of the wells can be drilled "open hole" without driving casing, and specific capacities are typically less than 0.5 gpm/ft.

Bedrock within the Clear Creek area is highly fractured in many places by northeast-trending, high-angle faults of the Trans-Challis Fault System. This fault system is several miles wide in the vicinity of the project area, and includes numerous mapped and unmapped parallel faults. The

Trans-Challis Fault System extends across the State, from the Boise Ridge in the southwest to the Montana border in the northeast.

Groundwater Occurrence

Groundwater occurrence in the Clear Creek area is strongly influenced by topography and the low permeability of the Idaho Batholith rock and low to moderate permeability of the Payette Formation. Groundwater flow direction generally mirrors the overlying topography, with flow direction more or less toward the nearest surface water drainage. Groundwater flow may also be effected by faults, which can function as either barriers or preferential flow paths depending on the nature of the fractures and the fracture filling material.

Low-permeability aquifers in upland locations often have strong downward vertical gradients. As a result, a deep borehole will often intersect several water-bearing zones with different static water levels. Thus, when a deep well is completed in an area with downward vertical gradients, the upper water-bearing zones (with higher static water levels) may drain through the borehole into deeper water-bearing zones (with lower static water levels).

Yields from wells completed in low-permeability aquifers are typically low, and production from such wells is often self-limiting due to excessive drawdown during sustained pumping. Upland well sites also may see significant annual water level fluctuations due to seasonal effects of snowmelt recharge and summertime pumping.

Water Level Measurements

I measured water levels in seven local wells (including the two Mahoney wells) on August 12, 2000. Ed Mahoney measured water levels his two wells on August 18, 19 and 20. Results of the August 12 water level measurements, along with well characteristics gathered from the driller's reports, are provided in Table 1. Driller's reports are provided as Attachment 1. Mahoney's measurements are provided as Attachment 2.

Table 1 also includes estimated water-level elevations, based on estimates of surface elevations at the well sites. These estimates are probably accurate to within plus or minus 50 feet. Note that most of the wells have similar estimated water level elevations (4150 +/- 40 feet), except for Deem and Smolczynski, which are significantly higher.

Individually, several wells showed significant changes from the water levels reported on the well logs, while others show little difference. On average, the water level measurements suggest a slight decline in static water levels in the area when compared to water levels listed on the well logs. Such a decline would be expected in wells that have been in use during the summer. Additional interpretation of the measured water levels is provided below.

Smolczynski Well. The measured static depth to water in the Smolczynski well was more than 60 feet higher than reported on the well log. The deep static water level listed on the well log may have been the result of drawdown following drilling and air-lift pumping. As a result, the water level reported by the driller might not have been a true static level at the time of measurement.

Note that the estimated water level elevation in the well is higher than the ground surface at the Mahoney well sites, and more than 100 feet higher than the water levels at the Mahoney wells. Therefore, the Smolczynski well is hydraulically up-gradient from Mahoney.

The Smolczynski well has a relatively low yield. I tested it on August 12 and found that it produced 7.5 gpm with approximately 46 feet of drawdown.

The Smolczynski well site is in the Davis Gulch surface water drainage. Therefore, the well might be on the other side of a groundwater flow divide between Davis Gulch and the South Fork of Clear Creek.

Given the high static water level, the recent production problems in the Smolczynski well appear to be unrelated to pumping by Mahoney. Pam Smolczynski noted that the problems (sand and lack of pressure) occurred after she had inadvertently left the hose running for an extended period of time while irrigating trees. The problem resolved itself after short period of time. The presence of sand may suggest that the well experienced a cave-in or sand heaving caused by excessive drawdown. Water system pressure and flow were likely restored after the sand was flushed from the pump and piping.

Mahoney 6-inch Well. The measured static depths to water in the Mahoney 6-inch well are more than 80 feet lower than listed on the driller's report. Such a deep static suggests that a shallow water-bearing zone (with a high static water level) has been de-watered through leakage down the borehole or by pumping. The present static water level elevation appears to be more typical of surrounding static water levels.

Mahoney 8-inch Well. Water level in the Mahoney 8-inch well was 45 feet lower than reported on the log when I measured it on August 12. However, the water level had not recovered from recent pumping. When water levels were allowed to recover overnight on August 19, the level was only about 15 feet lower than reported on the log. This suggests only minor aquifer drawdown in the vicinity of this well. This amount of drawdown is not significant in the vicinity of an operating well during mid summer.

Flurry Well. The measured static depth to water in the Flurry well is approximately 80 feet lower than listed on the driller's report. The deep static water level suggests that a shallow water-bearing zone (with a high static water level) has been de-watered through leakage down the borehole or by pumping. The present static water level elevation appears to be more typical of surrounding static water levels, including the adjacent Benger well. Note that recent pumping may have also contributed to the low static measured on August 12.

Benger Well. The water level measured in Benger well was 15 feet lower than reported by the well driller. As with the Mahoney 8-inch well, a minor water level decline should be expected in an operating well during mid summer.

Cook Well. Water level in the Cook well was 5 feet higher than reported on the driller's report. The Cook well is not currently in use and, therefore, should be representative of true static water level. The measured water level suggests no detectable impact from Mahoney pumping.

MICHC...
SEP 12 2000

James Well. Water level in the James well was 4 feet higher than reported on the driller's report. The James well is not currently in use. As with the Cook well, the water level at the James well suggests no detectable impact from Mahoney pumping.

Effect of Mahoney Pumping on Local Wells

Water levels in the Cook well and James well show no decline, suggesting no well interference impact from current pumping by Mahoney. Although pumping of the Mahoney wells potentially could impact water levels in neighboring wells, such impact is unlikely to develop because the relatively low permeability of the local aquifer materials generally will not allow the impacts of pumping to extend far from the pumping source. Instead, excessive drawdown in the Mahoney wells would probably develop if the Mahoney's pumping exceeds the capacity of the aquifer. Under such a scenario, Mahoney would experience reduced discharge rates due to higher pumping lifts and reduced well productivity.

Pumping in excess of thegroundwater recharge rate could cause long-term water-level declines. However, recharge from precipitation and snowmelt in the Timber Mountain vicinity is probably adequate to offset Mahoney's consumptive groundwater use. Long-term water level monitoring is recommended to verify that water-level declines are not occurring.

Anticipated Effect of Mahoney Pumping on Flows in Clear Creek and the Boise River

Groundwater within the Clear Creek drainage basin is tributary to Clear Creek and ultimately, (via Grimes Creek and Mores Creek) the Boise River. However, consumptive water use from wells at the Mahoney property site is anticipated to have little immediate effect on the flow in Clear Creek or the Boise River for the following reasons.

1. The aquifer zones tapped by the wells are unlikely to have direct hydraulic connection to Clear Creek. As such, pumping of the wells should not directly induce losses from Clear Creek.

2. Some eventual reduction in steam gains could occur due to groundwater pumping, but these reductions will likely take months or years to develop as water levels in the aquifer decline. The amount of reduced stream gains will be a portion of the consumed groundwater. The remainder of the consumed groundwater will be derived from reduced aquifer storage. Eventually, a steady-state condition will develop where the annual stream gain by Clear Creek is reduced by an amount equal to the average annual consumptive use of the wells.

Conclusions

1. There is no evidence to suggest that pumping by Mahoney has impacted yields or water levels in neighboring wells.

MICRO
NOV 1 2 2002

2. Pumping by Mahoney has likely caused water level drawdown in the near vicinity of the Mahoney wells. Much of this drawdown may recover over the winter and spring when irrigation and pond level demands are less.

Recommendations

1. Mahoney should discharge heat pump water into the 8-inch well to reduce groundwater waste during the winter months.

2. Mahoney should apply for a water right permit for landscape irrigation and pond level maintenance. Approximately 3 acres of existing irrigation water right should be retired to mitigate consumptive use for landscape irrigation and pond level maintenance.

3. Mahoney should monitor his well water levels in the future to verify that significant water level declines are not occurring.

Please contact me with any questions or comments concerning this investigation.

Sincerely,

Terry M. Scanlan, P.E., P.G.
Engineer/Hydrogeologist

Cc: Ed Mahoney

MICRO

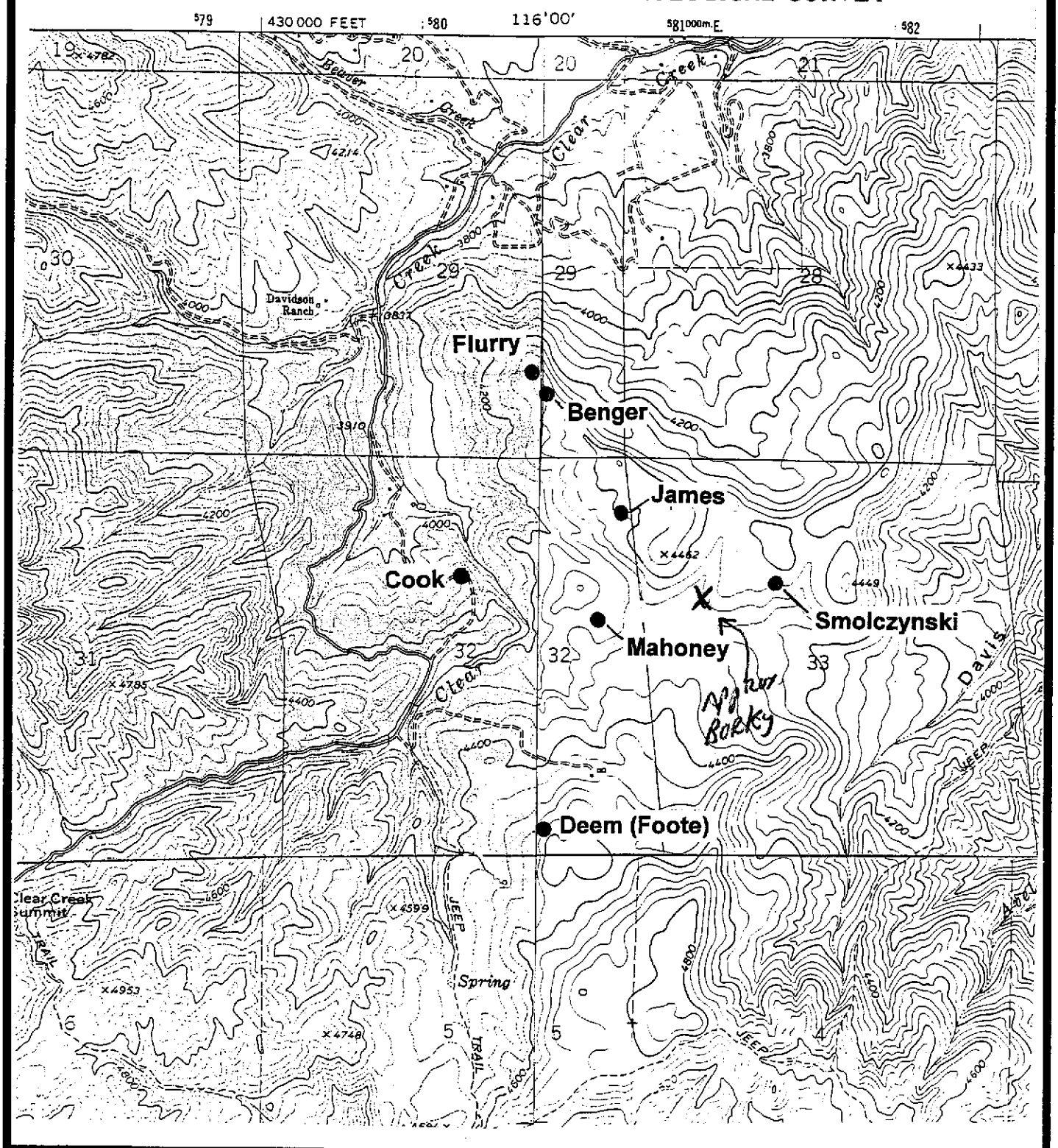


FIGURE 1 - WELL LOCATION MAP

TABLE 1
WELL DATA AND WATER LEVELS

		Well Log Data											
Well Owner	Listed Location	Total Depth (feet)	Casing Depth (feet)	Liner Depth (feet)	Static Water Level (feet bgs)	Yield (gpm)	Pumping Water Level (feet bgs)	Drawdown (feet)	Specific Capacity (gpm/ft)	08/12/2000 Static (feet btoc)	Difference from log (feet)	Estimated Ground Elevation	Estimated Static Water Level Elevation (8/12/00)
Smolczynski	Lot 3, Ph6	250	20	0	122	8	230	108	0.07	58.74	63	4350	4291
Mahoney	53 Settlers Rd	338	118	338	115	60	280	165	0.36	160.18	-45	4275	4115
Mahoney	Lot 3, Blk 4	263	165	263	25	35	140	115	0.30	113.5	-89	4275	4162
Cook	Lot 4, Blk 4	216	88	216	32	8	120	88	0.09	26.85	5	4150	4123
Deem (Foote)	Timber Mt	200	18	180	103					>100*		4520	4400+/-
Benger	SESE Sec 29	323	18	310	160	15	300	140	0.11	175.73	-16	4360	4184
Flurry	SESE Sec 29	264	264	264	60	20	244	184	0.11	140.8	-81	4320	4179
James	NENE Sec 29?	423	280	377	216	24	300	84	0.29	211.87	4	4400	4188
Average										126.8	-22.5		

bgs - below ground surface

btoc - below top of casing

*unable to drop probe below 100 feet

ATTACHMENT 1
WELL LOGS

Form 238-7
11/97

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

1. WELL TAG NO. D 0007745
DRILLING PERMIT NO. 63-98-W-0238-000
Other IDWR No. _____

2. OWNER:
Name ROBERT AND PAMELLA SMOLCZYNSKI
Address 75 SETTLERS ROAD
City BOISE State ID Zip 83716

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5 North XX or South ☐
Rge. 4 East XX or West ☐
Sec. 33 ____ 1/4 NW 1/4 SE 1/4
Gov't Lot ____ County BOISE
Lat: : : Long: : :
Address of Well Site SAME AS ABOVE
City BOISE
(Give at least name of road + Distance to Road or Landmark)

Lt. 3 Blk. _____ Sub. Name TIMBER MOUNTAIN RANCH SUBDIVISION PHASE 6

4. USE:
XX Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
XX New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
XX Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
BENTONITE	0'	20'	550 LBS	DRY POUR

Was drive shoe used? XX Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? XX Y ☐ N How? NO BLOW BY

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+2'	20'	250	STEEL	XX	☐	XX	☐
					☐	☐	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
Perforations Method _____
Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
						☐	☐
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
122 ft. below ground Artesian pressure _____ lb.
Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer XX Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
8 G. P. M.	N/A	230'	FIVE HOURS

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
12"	0'	18'	BASALT BOULDERS WITH GRANITE		
			BOULDERS AND RED CLAY		XX
12"	18'	20'	GRANITE		XX
6"	20'	36'	GRANITE		XX
6"	36'	54'	GRANITE WITH CLAY		XX
6"	54'	250'	DECOMPOSED GRANITE	XXX	

RECEIVED
OCT 28 1998
Department of Water Resources
RECEIVED
OCT 27 1998
WATER RESOURCES
WESTERN REGION

Completed Depth 250' (Measurable)
Date: Started 10/12/98 Completed 10/16/98

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name BILL DOTY DRILLING CO., INC. Firm No. 42
Firm Official and Driller or Operator _____ Date 10-26-98
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

MICROFILMED
NOV 12 2002

Test

Form 238-7
3/95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp _____ Rge _____ Sec _____
_____ 1/4 _____ 1/4 _____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. __-__-__-____-____
Other IDWR No. D0012412

2. OWNER:
Name Ed Mahoney
Address 530 Settlers Rd
City Boise State ID Zip 83716

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site 53 Settlers Rd
City Boise
(Give at least name of road + Distance to Road or Landmark)
Lt. _____ Blk. _____ Sub. Name _____

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	2'	18+'	7	overbore

Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
8"	+2'	118'	.250	Steel	☒	☐	☒	☐
6"	106'	338'	.250	Steel	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method torch
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
230'	270'		200	6"	Steel	☐	☒
290'	338'		200	6"	Steel	☐	☒
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
115ft below ground Artesian Pressure _____ lb
Depth flow encountered _____ ft. Describe access port or control devices: _____

MICROFILMED NOV 12 2002

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
60 GPM		280'	1 hr
40 GPM		220'	

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 56'

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia	From	To	Remarks: Lithology, Water Quality & Temp.	Water Y	Water N
10"	0'	4'	brown top soil		☒
10"	4'	6'	brown decomposed granite		☒
10"	6'	13'	brown clay		☒
10"	13'	18'	brown clay & gravel		☒
10"	18'	23'	brown gravel		☒
10"	23'	25'	boulders		☒
10"	25'	43'	brown clay & decomposed granite		☒
10"	43'	45'	brown rock		☒
10"	45'	56'	black rock		☒
10"	56'	67'	brown decomposed granite	☒	
10"	67'	74'	black rock		☒
8"	74'	85'	broken black rock	☒	
8"	85'	95'	brown clay		☒
8"	95'	127'	white clay & decomposed granite		☒
8"	127'	130'	white decomposed granite	☒	
8"	130'	146'	white clay & decomposed granite		☒
8"	146'	162'	white decomposed granite	☒	
8"	162'	191'	white clay & decomposed granite		☒
8"	191'	205'	white & brown decomposed granite	☒	
8"	205'	215'	blue clay		☒
8"	215'	255'	green & white granite		☒
8"	255'	260'	white decomposed granite	☒	
8"	260'	290'	white & brown granite		☒
8"	290'	325'	white decomposed granite	☒	
8"	325'	338'	brown & white granite		☒

Completed Depth: 340 (Measurable)
Date: Started 10-20-99 Completed 10-23-99

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official Tony Hackett Date 11/8/99
Supervisor or Operator Larry Kuyler Date 11/8/99
(Sign once if Firm Official & Operator)

Date: 10/29/99 Time: 12:50 PM

C

Form 238-7
5-95 4/96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. 63 97 W 0675 000
Other IDWR No. D0001385

2. OWNER:
Name Ed Mahoney
Address 1800 Bryson
City Boise State ID Zip 83713

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site _____
City ID City
(Give at least name of road + Distance to Road or Landmark)
Lt. 3 Blk. 4 Sub. Name Timber Mnt. Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	2	21	7	overbore

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+1	165	250	steel	☒	☐	☒	☐
4.5"	163	263	S 40	PVC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
165	262		500	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
25ft. below ground Artesian Pressure _____ lb
Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min.	Drawdown	Pumping Level	Time
35		140	3 hrs

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 121

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temp.	Y	N
10"	0	1	brown top soil		☒
10"	1	16	hard brown clay		☒
10"	16	21	hard green clay		☒
6"	21	65	hard brown clay		☒
6"	65	75	brown decomposed granite		☒
6"	75	108	brown clay		☒
6"	108	110	green granite boulder		☒
6"	110	121	brown clay		☒
6"	121	137	white quartz sand	☒	
6"	137	195	white clay w/strips of white decomposed granite	☒	
6"	195	210	white decomposed granite		☒
6"	210	222	white decomposed granite	☒	
6"	222	225	brown clay		☒
6"	225	250	green & white granite	☒	
6"	250	255	brown & white granite	☒	
6"	255	263	brown granite		☒
			depth open to 256'		
			liner to 263'		

RECEIVED
NOV 0 5 1997
Department of Water Resources

RECEIVED
NOV - 3 1997
WATER RESOURCES
WESTERN REGION

Completed Depth: 256 (Measurable)
Date: Started 10/02/97 Completed 10/06/97

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official Tony Herbst Date 10/21/97
Supervisor or Operator Tom Kinyon Date 10-20-97
(Sign once if Firm Official & Operator)

Date: 10 10 97 Time: 10:34 AM

MICROFILMED
NOV 1 2 2002

Form 238-7
1/94

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Use Typewriter or Ball Point Pen

1. DRILLING PERMIT NO. 63-94-W-0310-000
Other IDWR No.

2. OWNER:
Name EDWARD COOK
Address 3501 S LINDSAY ST
City Boise State ID Zip 83705

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 SW 1/4 NE 1/4 ____ 1/4
Gov't Lot ____ County Boise
Address of Well Site OFF CLEAR CK. RD City ID. CITY
(Give at least name of road + Distance to Road or Landmark)
Lt. 4 Blk. 4 Sub. Name TIMBER MOUNTAIN RANCH

4. PROPOSED USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other

5. TYPE OF WORK
☒ New Well ☐ Modify or Repair ☐ Replacement ☐ Abandonment

6. DRILL METHOD
☐ Mud Rotary ☐ Air Rotary ☒ Cable ☐ Other

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
Bentonite	0	18	3 SACKS	SLURRY

Was drive shoe used? Y ☒ N ☐
Was drive shoe seal tested? Y ☐ N ☒ How?

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	38'	+2	.035	STEEL	☒	☐	☒	☐
4½	216'	40'	480	PLASTIC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe ____ Length of Tailpipe ____

9. PERFORATIONS/SCREENS
☒ Perforations Method SAWN SAW
☐ Screens Screen Type

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
215	40	⅛	320	4½	PLASTIC	☐	☒
8.2	42	⅛	52	6"	STEEL	☒	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
32' ft. below ground Artesian pressure ____ lb.
Depth flow encountered ____ ft. Describe access port or control devices: 1" WELL CAP

11. WELL TESTS:
☒ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
8	120'	120	9 HRS

Water Temp. 51 Bottom hole temp.
Water Quality test or comments: GOOD

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
8	0	20	TOP SOIL		X
6"	20	22	CLAY		
	22	26	GRANITE ROCK		
	26	40	DARK CLAY		
	40	53	GRANITE		
	53	65	RED CLAY		
	65	74	DECOMPOSED GRANITE	X	
	74	88	RED CLAY		
	88	100	BROWN CLAY		
	100	106	COARSE SAND	X	
	106	113	GRAY CLAY		
	113	140	DECOMPOSED GRANITE	X	
	140	172	BROWN & GRY CLAY		
	172	179	DECOMPOSED GRANITE	X	
	179	188	COARSE SAND	X	
	188	192	GRAY CLAY		
	192	198	SAND & GRANITE ROCK	X	
	198	204	BLUE GRAY CLAY		
	204	209	COARSE SAND	X	
	209	213	SANDY CLAY		
	213	216	GRANITE ROCK + PEA GRAVEL	X	

RECEIVED SEP 20 1994 Department of Water Resources
RECEIVED JUL 21 1994 WATER RESOURCES WESTERN REGION

Completed Depth 216' (Measurable)
Date: Started 6-16-94 Completed 6-28-94

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Gray Water Well Drilling Firm No. 492
Firm Official Tony Gray Date
and
Supervisor or Operator Don Town Date 7-16-94
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

MICROFILMED NOV 12 2002

#1

:cted Well Report"

Form 238-7
4/92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
FEB 0 2 1994
Department of Water Resources

USE TYPEWRITER OR BALLPOINT PEN

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1. WELL OWNER

Name Jim Dean

Address PO Box 15702 Boise

Drilling Permit No. 63-92-C-110-000

Water Right Permit No. _____

2. NATURE OF WORK

☑ New well ☐ Deepened ☐ Replacement
☐ Well diameter increase ☐ Modification
☐ Abandoned (describe abandonment or modification procedures such as liners, screen, materials, plug depths, etc. in lithologic log, section 9.)

3. PROPOSED USE

☑ Domestic ☐ Irrigation ☐ Monitor
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

4. METHOD DRILLED

☑ Rotary ☑ Air ☐ Auger ☐ Reverse rotary
☐ Cable ☐ Mud ☐ Other _____ (backhoe, hydraulic, etc.)

5. WELL CONSTRUCTION

Casing schedule: ☑ Steel ☐ Concrete ☑ Other PVC

	Thickness	Diameter	From	To
steel	1/4 inches	8 inches	+ 2 feet	18 feet
PVC	1/4 inches	4½ inches	+ 2 feet	130 feet
	_____ inches	_____ inches	_____ feet	_____ feet

Was casing drive shoe used? ☐ Yes ☑ No
Was a packer or seal used? ☑ Yes ☐ No Bentonite
Perforated? ☐ Yes ☑ No
How perforated? ☐ Factory ☐ Knife ☐ Torch ☐ Gun
Size of perforation? _____ inches by _____ inches

Number		From	To
_____	perforations	_____ feet	_____ feet
_____	perforations	_____ feet	_____ feet
_____	perforations	_____ feet	_____ feet

Well screen installed? ☑ Yes ☐ No
Manufacturer Unknown Type PVC machine slotted
Top Packer or Headpipe +2' above ground surface
Bottom of Tailpipe 130'

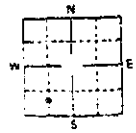
Diameter 4½ Slot size 16" Set from 130 feet to 122 feet
Diameter ____ Slot size ____ Set from ____ feet to ____ feet
Gravel packed? ☑ Yes ☐ No ☐ Size of gravel 5/16"
Placed from 125 feet to 110 feet

Surface seal depth 125' Material used in seal: ☐ Cement grout
☑ Bentonite ☐ Puddling clay ☐ _____
Sealing procedure used: ☐ Slurry pit
☑ Temp. surface casing ☑ Overbore to seal depth w/ Bentonite Chips
Method of joining casing: ☐ Threaded ☐ Welded
☑ Solvent Weld PVC ☐ Cemented between strata

Describe access port Top

6. LOCATION OF WELL

Sketch map location must agree with written location.



Subdivision Name Timber Mist
Ranch
Lot No. _____ Block No. _____
County Boise
Address of Well Site _____ (give at least name of road)
T. 5N N ☑ or S ☐
¼ ¼ ¼ Sec. 32 , R. 3E E ☑ or W ☐

7. WATER LEVEL

Static water level 103 feet below land surface.
Flowing? ☐ Yes ☑ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature _____ °F. Quality _____
Describe artesian or temperature zones below.

8. WELL TEST DATA N/A

☐ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
14"	0	20'	Top soil, Brown Clay, Gravel		
10"	20	125	clay, Rock, very moist	✓	
10"	125	700	Granite-Soft, very muddy	✓	

10.

Work started 7-13-92 finished 7-16-92

11. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name PK Exploration Firm No. 462
Address PO Box 56 Wendell Idaho Date 1/31/94
Signed by Drilling Supervisor Steven D. Mills
and
(Operator) Dean Walker
(If different than the Drilling Supervisor)

USE ADDITIONAL SHEETS IF NECESSARY — FORWARD THE WHITE COPY TO THE DEPARTMENT

Form 238-7
3/95

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT
Use Typewriter or Ballpoint Pen

Office Use Only
Inspected by _____
Twp____ Rge____ Sec____
____1/4 ____1/4 ____1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. 63-76-42 0722-000
Other IDWR No. _____

2. OWNER:
Name Chris Bengel
Address 1808 Chisholm
City Nampa State ID Zip 83686

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 29, ____ 1/4 SE 1/4 SE 1/4 (10 acres / 40 acres / 160 acres)
Gov't Lot ____ County Boise County
Lat: : : Long: : :
Address of Well Site _____
(Give at least name of road + Distance to Road or Landmark) City Boise
Lt. 4 Blk. 5 Sub. Name Timber Meadow Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
Bentite	0	161	450	Pour

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) 18
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6	+2	16	245	Steel	☒	☐	☒	☐
4½	10	310	Y4	PVC	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☐ Perforations Method _____
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
+6	316					☐	☐
						☐	☐
						☐	☐

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10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
160 ft. below ground Artesian pressure _____ lb.
Depth flow encountered 300-320 ft. Describe access port or control devices: CAP

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
10-15	300	300	2 Hr

Water Temp. 55 Bottom hole temp. 55
Water Quality test or comments: _____
Depth first Water Encountered _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
10	0	2	Fill, Top Soil		
	2	6	Top Soil		
	6	18	~~Boring~~ Soft Granite		
6	18	80	Brn Granite		
	80	110	Red Granite		
	110	200	Brn Granite		
	200	300	Gray Granite 5 Gal	X	
	300	323	" " 10 Gal	X	

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OCT 11 1996
WATER RESOURCES
WESTERN REGION

Completed Depth 320 (Measurable)
Date: Started 9-24-96 Completed 9-24-96

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Hennessy Water Drilling Firm No. 560
Firm Official _____ Date 10-1-96
and
Supervisor or Operator _____ Date 10-1-96
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

Form 238-7
3/95

C

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Use Typewriter or Ballpoint Pen

Office Use Only
Inspected by _____
Twp____ Rge____ Sec____
____1/4 ____1/4 ____1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. D0001286
Other IDWR No. 63-97-W-0629-000

2. OWNER:
Name Don Flurry
Address HC 33 Box 4031
City Boise State Id Zip 83706

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5N North ☐ or South ☐
Rge. 4E East ☐ or West ☐
Sec. 29, ____ (10 acres) 1/4 SE (40 acres) 1/4 SE (160 acres) 1/4
Gov't Lot ____ County Boise
Lat: : : Long: : :
Address of Well Site _____
City Boise
(Give at least name of road + Distance to Road or Landmark)
Lt. 4 Parcel Blk. 5 Sub. Name Timber Mountain Ranch

4. USE:
☑ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☑ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☑ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
Benonite	0	18	350	Pour

Was drive shoe used? ☐ Y ☑ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☑ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+2'	18'	250	steel	☑	☐	☑	☐
4½"	5'	264		PVC casing	☐	☑	☑	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☐ Perforations Method _____
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
						☐	☐
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
160 ft. below ground Artesian pressure _____ lb.
Depth flow encountered 234 ft. Describe access port or control devices: Cap

11. WELL TESTS:
☐ Pump ☐ Bailer ☑ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
20	244	244	3 hr

Water Temp. 54° Bottom hole temp. 54°
Water Quality test or comments: _____
Depth first Water Encountered 90'

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
8⅝	0	1	Top soil		
	1	3	Clay		
	3	8	hard Pan		
	8	12	soft decomposed granite		
	12	18	decomposed granite		
6"	18	220	granite	/	
	220	264	cracked granite	/	

RECEIVED
OCT - 3 1997
WATER RESOURCES
WESTERN REGION

Completed Depth 264 (Measurable)
Date: Started 9-11-97 Completed 9-11-97

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Treasure Valley Drilling Firm No. 560
Firm Official and Supervisor or Operator _____ Date 9-29-97
(Sign once if Firm Official & Operator)

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FORWARD WHITE COPY TO WATER RESOURCES

Form 238-7
3/95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT
Use Typewriter or Ballpoint Pen

Office Use Only
Inspected by
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

Date: 06/17/96 Time:1:39 PM

1. DRILLING PERMIT NO. 63 -96 -W -0387 -000
Other IDWR No. ____

2. OWNER:
Name John & Stella James
Address 2040 Airport Way #45
City Boise State ID Zip 83705

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 29 1/4 (10 acres) NE 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot ____ County Boise
Lat: : : Long: : :
Address of Well Site Pioneer Drive
City Boise/Idaho City
(Give at least name of road + Distance to Road or Landmark)
Lt. 1 Blk. 5 Sub. Name Timber Mnt. Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other ____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other ____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other ____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	0	19	7	overbore

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) ____
Was drive shoe seal tested? ☐ Y ☒ N How? ____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+1	280	250	steel	☒	☐	☒	☐
4.5"	257	377	s 40	PVC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe ____ Length of Tailpipe ____

9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type ____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
317	377		180	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
216ft. below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min.	Drawdown	Pumping Level	Time
24	no test	300'	

Water Temp. ____ Bottom hole temp. ____
Water Quality test or comments: ____
Depth first Water Encountered ____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
10"	0	5	brown clay		☒
10"	5	18	hard black granite		☒
6"	18	106	decomposed granite		☒
6"	106	139	soft tan clay		☒
6"	139	193	decomposed green granite		☒
6"	193	216	gray clay		☒
6"	216	224	gray green clay		☒
6"	224	234	green softish rock		☒
6"	234	305	green firm rock		☒
6"	305	379	green rock harder		☒
6"	379	381	course quartz sand 30+ gpm	☒	
6"	381	403	hard green rock		☒
6"	403	423	hard green rock		☒

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JUL 18 1996
WATER RESOURCES
WESTERN REGION

Completed Depth: 372' (Measurable)
Date: Started 06-07-96 Completed 06-14-96

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official [signature] Date 6-20-96
Supervisor or Operator Frank Schmidt Date 6-24-96
(Sign once if Firm Official & Operator)

Attachment 2 - Mahoney Well Measurements

Date	Time	State or Event	6" Well Depth to Water	8" Well Depth to Water
8/18/00 (Fri)	15:00	Auto Irrigation System On (8" Well); 6" Well heat pumps off but pump could run		
8/19/00 (Sat)	2:30	Auto Irrigation System Off		
	7:30	Depth Measurements; Power off 8" well	110' 0"	144' 0"
	18:30	Depth Measurements; Power off 6" Well (except to recharge pressure tanks once at 05:30 Sun)	109' 8"	135' 7"
8/20/00 (Sun)	8:00	Depth Measurements;	108' 10"	131' 3"
	10:30	Depth Measurements	108' 7"	130' 6"
	10:45	Power on to 6" Well; Start up both heat pumps; (15 gpm load); Pump cycles on for 45 seconds every 80 seconds		
	11:05	6" Well Pump kicks on, draws down to	119'	
		Pump kicks off, water rises to	113'	
	11:10	6" well (heat pumps) still running; now power up 8" well running open discharge at 40 gpm		130' 5"
	11:20	Depth measurements, 8" well only		154' 6"
	11:25	Depth measurements, 8" well only		164'
	11:40	Depth measurements, 8" well only		179'
	11:50	Depth measurements, 8" well only		185'
		Note: Started having problems with the probe running into some sort of obstruction in the 175' to 185' range?		
	12:05	Depth measurements, 8" well only (may be stable here?)		185'
	12:10	Depth measurements, 6" well only, pump still cycling; when on draws down to	121'	
		Pump kicks off, water rises to	115'	
		Note: I tried to run every faucet and hose I could find along with the heat pumps to reach a state where the 6" well pump would not turn off		
	12:25	Although it took longer before the pump kicked off;I was unable to reach a state where it would just run and draw down; got it down to	125'	
	12:30	Turned everything off on both wells, wanting to see how fast initial recharge is		
	12:45	Depth measurements; 6" well only	112' 5"	
	12:55	Depth measurements; 6" well only	111' 4"	
	13:05	Depth measurements; 8" well only		142' 7"

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SCANLAN ENGINEERING

Groundwater and Environmental Engineering

Received at pre hearing conference, -81

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JUL 0 2 2001

WATER RESOURCES
WESTERN REGION

June 25, 2001

Ed Mahoney
53 Settlers Road
Boise, ID 83716

Subject: Summary of Well Water Level Measurements for June 24, 2001

Dear Ed:

Water levels measured in local wells on June 24, 2001 are summarized below. Water levels were measured using an electric line well sounder. All measurements are recorded in feet below top of casing.

Well	Depth to Water (feet)	Remarks
Cook	25.36	no recent pumping
Mahoney (6-inch well)	111.33	off for 8 hours
Mahoney (8-inch well)	130.75	off for 23 hours
Smolczynski	86.73	off for 8 hours
James	214.34	no recent pumping
Borley (garage well)	148.42	off 13 hours
Borley (stable well)	89.91	

Please contact me with any questions.

Sincerely,

Terry M. Scanlan, P.E., P.G.

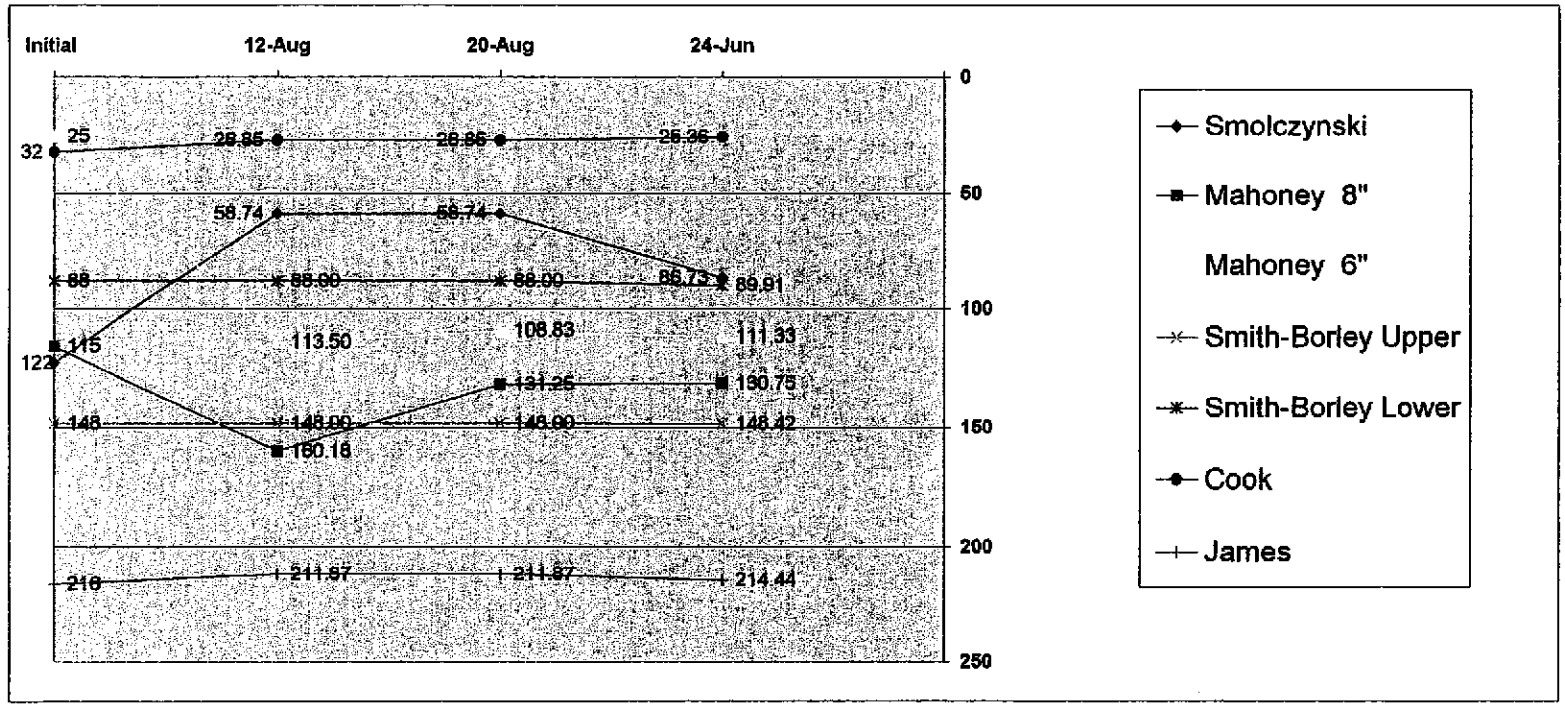
Cc: Jeff Fereday
Ed Squires

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NOV 1 2 2002

600 East River Park Lane, Suite 105
Boise, Idaho 83706

Telephone (208) 383-4140
Facsimile (208) 383-4156

		Well Log Data								Subsequent Static Readings (feet btoc)		
Well Owner	Location	Total Depth (feet)	Casing Depth (feet)	Liner Depth (feet)	Yield (gpm)	Pumping Water level (feet bgs)	Drawdown (feet)	Specific Capacity (gpm/ft)	Initial	12-Aug	20-Aug	24-Jun
Smolczynski		250	20	0	8	230	108	0.07	122	58.74	58.74	86.73
Mahoney	8"	338	118	338	60	280	165	0.36	115	160.18	131.25	130.75
Mahoney	6"	263	165	263	35	140	115	0.3	25	113.50	108.83	111.33
Smith-Borley	Upper	216	57	215					148	148.00	148.00	148.42
Smith-Borley	Lower	138	59	59					88	88.00	88.00	89.91
Cook		216	88	216	8	120	88	0.09	32	26.85	26.85	25.36
James		423	280	377	24	300	84	0.29	216	211.87	211.87	214.44



BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	))))	**NOTICE OF PREHEARING CONFERENCE**

On March 23, 2001, James E. Mahoney filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Robert &/or Pamella Smolczynski; Kevin D. Smith &/or Debra Borley; Rex Lanham; and Francis &/or Shirley Mangum.

IDWR has scheduled a prehearing conference for the protest to be held on **Monday, July 2, 2001, at 2:00 a.m. at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.** The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the IDWR within (10) days prior to the conference.

Dated this 22nd day of June 2001.

Gary Spackman

MICROFILMED
NOV 12 2002

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of June 2001, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to the applicant(s) and protestant(s) listed:

Sue Taylor
Senior Secretary

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

ROBERT &/OR PAMELLA SMOLCZYNSKI
75 SETTLERS RD
BOISE ID 83716

KEVIN SMITH &/OR DEBRA BORLEY
70 SETTLERS RD
BOISE ID 83716

REX LANHAM
2630 HWY 21
BOISE ID 83716

FRANCIS &/OR SHIRLEY MANGUM
C/O CHARLES HONSINGER
PO BOX 2773
BOISE ID 83701-2773

JEFFREY FEREDAY ESQ
PO BOX 2720
BOISE ID 83701

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NOV 12 2002

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1) Will the proposed appropriation injure other water rights?

2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?

3) Was the application made in good faith or for delay or speculative purposes?

4) Does the applicant have sufficient financial resources with which to complete the proposed project?

5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

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CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may, by written stipulation, waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

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NOV 12 2002

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 13, 2001

James E. Mahoney
53 Settlers Rd
Boise ID 83716

RE: Application for Permit No. 63-31218

Dear Mr. Mahoney:

Thank you for the information indicating how you plan to keep your total ground water diversion below 13,000 gpd. Please be aware that until the protests are resolved and your application is approved, total irrigation is limited to ½ acre per I.C. § 42-111.

If you have further questions, please contact me at this office.

Sincerely,

Lori Graves
Sr. Water Agent

Cc: Jeff Fereday, Terry Scanlan, Ed Squires, Charlie Honsinger, Rex Lanham, Kevin Smith and Debra Borley, Robert and Pam Smolczysnki

MICROFILMED
NOV 12 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR WATER RIGHT PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	)))))	**ORDER AURHORIZING DISCOVERY**

James E. Mahoney filed a Motion for an Order Authorizing Discovery pursuant to Rule 521 of the Idaho Department of Water Resources' Rules of Procedure.

IT IS HEREBY ORDERED that all parties to the above-titled contested case are authorized to engage in discovery.

IT IS FURTHER ORDERED that responses to discovery requests shall not be due until after the prehearing conference scheduled for July 2, 2001. A schedule for responses will be determined at the conference.

Dated this 12th of June, 2001.

Gary Spackman

CERTIFICATE OF MAILING

I hereby certify that on this 13th day of June, 2001, I mailed a true and correct copy, postage prepaid, of this Order Authorizing Discovery to those listed below:

Sue Taylor
Senior Secretary

Robert &/or Pamella Smolczynski
75 Settlers Rd
Boise ID 83716

Ken D. Smith &/or Debra Borley
70 Settlers Rd
Boise ID 83716

MICROFILMED
JUN 12 2002

Rex Lanham
2630 hwy 21
Boise ID 83716

Francis &/or Shirley Mangum
Charles Honsinger
PO Box 2773
Boise ID 83701-2773

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MAY 3 1 2001
WATER RESOURCES
WESTERN REGION

GIVENS PURSLEY LLP

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jacqueline M. Fearnside
Timothy P. Fearnside
Jeffrey C. Fereday
Amanda L. Keating
Karl T. Klein
Debora K. Kristensen
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Virginia L. Stukel
Conley Ward
Stephanie C. Westermeier
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

Direct Dial: (208) 388-1217
E-Mail: jcf@givenspursley.com

May 31, 2001

VIA HAND DELIVERY
Gary L. Spackman
Western Region Director
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Mahoney Water Right Application, No. 63-31218
Our File: 5810-2

Dear Gary:

I am enclosing a Motion for Order Allowing Discovery in the matter of Application for Permit No. 63-31218 on behalf of James E. Mahoney. The time for protesting this application has expired and all protestants have been identified. We also request that you schedule a pre-hearing conference as soon as possible. Mr. Mahoney would like to move to hearing as quickly as possible. Thank you for your attention to this.

Sincerely,

Jeffrey C. Fereday

JCF/nlg
Enclosure
cc: Charles L. Honsinger, Esq.
Kevin Smith & Debra Borley
Rex Lanham
Robert & Pamella Smolczynski

GENIE.SYS:DATA:MACS:JCF:Mahoney:Spackman Mahoney prtst 5.31.01

MICROFILMED
NOV 1 2 2002

Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\CLIENTS\5810\2\Motion permitting discovery.doc

Attorneys for Applicant James E. Mahoney

BEFORE THE STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218	MAHONEY'S MOTION FOR ORDER ALLOWING DISCOVERY

Applicant James E. Mahoney ("Mahoney") hereby files this motion for an order allowing discovery in this matter pursuant to IDAPA 37.01.01.521. Francis and Shirley Magnum, Kevin Smith and Debra Borley, Robert and Pamella Smolczynski, and Rex Lanham have filed protests to Mr. Mahoney's Application for Permit No. 63-31218. Mahoney seeks discovery in this case to identify the factual bases for the protests and to prepare for the hearing.

Respectfully submitted this 31st day of May, 2001.

GIVENS PURSLEY LLP

Jeffrey C. Fereday

Jeffrey C. Fereday

MICROFILMED
NOV 12 2002

Certificate of Service

I hereby certify that on this 31st day of May, 2001, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

✓ U.S. Mail
____ Hand Delivery
____ Overnight
____ Telecopy

Charles L. Honsinger, Esq.
Ringert Clark Chtd.
455 S. 3rd St.
Boise, ID 83701

✓ U.S. Mail
____ Hand Delivery
____ Overnight
____ Telecopy

Kevin Smith & Debra Borley
70 Settlers Road
Boise, ID 83716

✓ U.S. Mail
____ Hand Delivery
____ Overnight
____ Telecopy

Rex Lanham
2630 Highway 21
Boise, ID 83716

✓ U.S. Mail
____ Hand Delivery
____ Overnight
____ Telecopy

Robert & Pamella Smolczynski
75 Settlers Road
Boise, ID 83716

✓ U.S. Mail
____ Hand Delivery
____ Overnight
____ Telecopy

Jeffrey C. Fereday
Jeffrey C. Fereday

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RECEIVED
MAY 2 9 2001
WATER RESOURCES
WESTERN REGION

James E. Mahoney
53 Settlers Road
Boise, ID 83716

May 25, 2001

Lori Graves
Sr. Water Analyst
Idaho Department of Water Resources
2735 Airport Way
Boise, Id 83705-5082

Re: Application for Permit No. 63-31218

Dear Ms Graves:

This responds to your letter of May 18, 2001, which requests information about how I plan to curtail my total diversion amount to meet the domestic limitation of 13,000 gallons per day per I.C. § 42-111. As you know, one reason for my water right application and its accompanying mitigation plan is to allow me to irrigate some 3 1/2 acres, rather than the half acre specified in this provision. I already had taken steps, before your letter, to calculate and restrict my pumping to a total that meets this standard. Of course, one purpose of my application is to have the ability to go beyond the strict limits of the domestic amount to fully irrigate the area specified in the application. But for now I certainly will keep my total diversions below 13,000 gpd.

The following ground water diversion table specifies the maximum amounts that I will divert from groundwater, pending the outcome of my permit application:

Seasonal Calculations	Nov-Apr	May-Jun	Jul-Aug	Sep-Oct
Gallons per day for for sprinkler system	0	9240	12180	9240
Gallons per day for Heat Pumps	12640	3360	360	3360
Gallons per day for household use	300	300	300	300
Average Daily Diversion	**12940**	**12900**	**12840**	**12900**

Irrigation System Description
The irrigation system contains twelve active stations. Eleven stations are attached to sprinkler heads, one station is available for pond fill. All stations are tied to a master timer. To meet the limited utilization described above, during the moderate temperature months (May, June, September, & October), the average amount of time per station is 22 minutes. To meet the limited utilization in the hottest months, the average amount of time per station is 29 minutes.

Heat Pump System Description
I have a heat pump in the main house and another in the attached guesthouse, both of which operate by means of pumping ground water through their coils. The main house heat pump, when operating at optimum heat exchange efficiency, uses 8 gallons per minute. The guesthouse heat pump operates at 6 gpm. The guesthouse is unoccupied, and in use only on occasional holidays. This allows me to run the thermostat at a lower setting and allows the heat pump to operate less often and for less duration than the unit serving the main house. Based on my experience observing the operational frequency and run duration of the heat pumps through 2 winters, I have calculated the seasonal figures shown in the above table. This represents the total diversion for both heat pumps.

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Originally, the heat pump system was strictly an open loop system that discharged diverted ground water to the pond after the heat exchange process occurred. Based on discussions with Department officials and other hydrological experts, I have invested to convert the heating system to allow the diverted water to be returned back to the ground water aquifer through injection. We have been running the heating system in this non-consumptive mode since April 25th of this year, and this new mode of operation is reflected in my water right application.

Household Use Description

My wife and I are the only occupants of our home. In calculating our water use, I used a high-end estimation of 120 gallons per day per person, and rounded up to 150 gallons per day per person to account for occasional use by guests.

Summary and General Points

Pending the outcome of my application, our ground water diversions will not exceed the 13,000 gallons per day limit for a domestic water right. The above figures demonstrate how we are meeting this limit now.

Of course, it is important to recognize that the entire heat pump component of this diversion (12,640 gpd in winter, 3,360 gpd in spring and fall, 360 gpd in summer) is immediately injected back into the aquifer in a closed loop system. We trust the Department will take this into consideration in evaluating the 13,000 gpd issue. The upshot is that, under the program we currently are following, we really are not diverting even 13,000 gpd away from the source.

While the above plan is within the domestic limitation, it is strictly an austerity program (at least with respect to irrigation). For reasons stated in my water right application, I would like the right to expand my diversion to a maximum rate of 0.14 cfs, which is at or near the standard rate for irrigation.

There is no clear evidence such additional ground water use, or indeed any existing ground water use from the area where the protestants and I have wells, would cause measurable depletions to the Boise River. However, in order to cover any potential future river depletion that may occur during the irrigation season, and to allow my application to be processed despite the moratorium in the Boise River Basin, I have purchased an 1865-priority surface water right on the Boise River that will be retired. This is documented in the mitigation plan attached to my application.

I also believe that the small amount of pumping I am proposing will have no adverse affect on any surrounding properties or water rights. I invested in a ground water study that showed that after 2 years of ground water diversion for all the above purposes (including full irrigation and pond use), there has been no adverse effect on static water levels in any of the surrounding wells we surveyed. We are very keen to hear from the protestants about any evidence they have to suggest that our pumping may have such an effect.

We appreciate your attention to this matter. As I believe you know, when I became aware that I needed a standard water right for my wells' non-domestic water, I immediately came to the Department and have been open with you about what I am doing at my home, the reasons for the application, the details of the mitigation plan, and so forth. I look forward to working with you and the protestants to resolve this matter rapidly, and hope that you can schedule a pre-hearing conference without delay. Naturally, we need to see whatever information the protestants have about this matter, and may need to establish a formal fact-finding process, discovery, depositions, and a hearing. But we stand ready to discuss this information with the Department and the protestants. At the same time, we are committed to doing whatever we can to help this process move forward rapidly.

Your continued diligence to efficiently resolve my application is appreciated.

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NOV 12 2002

Sincerely,

James E. Mahoney

Cc: Gary L. Spackman
Jeff Fereday
Terry Scanlan
Ed Squires
Charles Honsinger
Rex Lanham
Kevin Smith & Debra Borley
Robert & Pamela Smolczysnki

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NOV 1 2 2002

12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: 63-31218

Applicant's Name: James Mahoney

Watermaster's Recommendation:

a) ____ I do not oppose approval of this application.

b) X I do not oppose approval of this application if it is conditioned as follows: Standard Watermaster conditions - all water above 165ft should be cased out if he wants a recreation pond. The deeper water may not interfere (#12)

c) ____ I oppose approval of this application for the following reasons: with surface water users. No mitigation plan was included to review. There should be no outside irrigation allowed the pond is stretching things.

d) ____ Additional Comment: _____

Dated this 22 day of May, 2001.

Water District No: 63

Lee Juce
Watermaster's Signature

Use reverse side of page if you need more space.

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MAY 1 2 2002

RECEIVED
MAY 21 2001
Department of Water Resources

Notice of Protest

1. Water Right Number: permit number: 63-31218 / water right number: 63-00270

2. Name of Protestant: Robert and Pamella Smolczynski

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MAY 22 2001
WATER RESOURCES
WESTERN REGION

3. No Difference from Protestant

4. Service Mailing Address: 75 Settlers Road Boise, ID 83716

5. Service Telephone No. (208) 392-4944

6. Basis of Protest: Idaho Code 42-237(a) and State Water Plan section 1H . Concern that ground water recharge may not be sufficient to mitigate the requested use. Concern that damage may occur to water rights and supplies within the immediate area.

7. What would resolve your protest?

We call for the following stipulations be added if this water right is granted; the right should be contingent on these grounds, and these grounds are stated in the actual water right itself:

1. Provide a performance test of heat pump water reinjection into existing 8 inch well that demonstrates use of this well is a viable means to recharge water. This demonstration should show that the well can adequately handle six months of reinjection, at a minimum, without need to divert water to surface water. If the existing well is not suitable for sustained reinjection, a reinjection site that is suitable must be installed.
2. Mandatory heat pump reinjection from November 01st. until April 30th each year and that no other consumptive use be allowed during this period (i.e. pond filling, heat pump surface water supplementation, or irrigation).
3. Statement from the Department of Water Resources that the proposed 1865 surface water right that is to be transferred to ground water right does not supercede any other rights for water usage in this area.
4. A legal instrument is in place to require negation of consumptive pumping rights if a trend in ground water depletion is shown at any time that might adversely impact properties in the area.
5. A legal instrument is in place that requires the water right owner be responsible for any adverse effects to other property owner's water rights (including domestic water usage) that maybe adversely affected by this consumptive use. This would include any attorney fees needed to mitigate a situation where property is potentially damaged by this consumptive water use.

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NOV 12 2002

6. Ground water level monitoring will be performed in wells established in close proximity to the property involved with the water right in protest. Static water levels would be recorded to include at a minimum, a radius of residential wells available within the immediate area that allows ground water impacts to be studied adequately. The monitoring should be performed under prescribed guidelines stated below. The water levels recorded should be published and provided to all residents participating within 30 days of time taken. Property owners participating in monitoring must comply with requirements to ensure a level of accuracy, as stated below. We request that our well be included in such a study.

   i. Monitored wells should remain unused for a period of 12 hours prior to testing. Recipients of monitoring studies would be granted a minimum of 24 hours notice of intent to sample water levels.
   ii. Monitoring wells should be recorded every two months.

7. The water right applicant should invest in other means to reduce this water usage to mitigate superfluous consumption of ground water. The consumptive daily use of 17,000 gallons of ground water in fragile mountain ground water fractures is extreme. The applicant could allow subsidence in the circumference of the pond to accommodate more natural occurring dimensions over the course of the seasons. This temperance in water usage could still provide an aesthetically pleasing water feature for the homeowner and yet save millions of gallons of water every year. The applicant could consult specialists for the appropriate riparian foliage to provide a buffer to the visual effects of water line subsidence, while in addition, allowing greater benefits to wildlife in the area that utilize the pond as habitat.

Rob Smolczynski

Pam Smolczynski

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NOV 12 2002

Idaho Department of Water Resources Receipt

Receipt ID C053854

Payment Amount	$25.00	**Date Received**	5/21/01 1:38:19 PM	**Region**	State	**Status**	
Payment Type	Check	**Check Number**	2647				

Payer SMOLCZYNSKI ROBERT A OR PAMELLA J

Comment PROTEST OF WATER RIGHT NUMBERS 63-31218 63-00270

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MAY 2 2 2001
WATER RESOURCES
WESTERN REGION

Fee Detail

Amount	Description	Fund	FD	PCA	SO
$25.00	PROTESTS	0229	21	56103	1155

Signature Line (Dept. Representative)

MICROFILMED
NOV 1 2 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 NORTH ORCHARD
BOISE, ID 83706-2237
(208) 327-7900

Date 5/21/01

Name Pamella J. Smolczynski

Address 75 Sitters Rd.
Boise 83716

~~No. of~~ Copies	Materials	~~Cost~~
	Received this day $25.00 for protest of (03-3128 Permit) & (03-0270 (w.r.)	$
	TOTAL	$25.00

Please find enclosed the form(s) and/or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

Deborah J. Gibson

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NOV 12 2002

11/99

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MAY 18 2001
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested pumping Large quantities of water will effect current water right & reduce quantity of existing water right 63-5035 + well 63-31228
2. Name of protestant Rex Lanham
3. Protestant's Representative for service (If different than protestant)

   _____
4. Service mailing address 2630 Hwy 21 Boise Idaho 83716
5. Service telephone no. 344-1971
6. Basis of protest (including statement of facts and law upon which the protest is based)

   Current illegal pumping - open discharge to pond - water supply is not sufficient for this purpose - Local & State interest Toward conservation of water resource with in Idaho springs & wells on this mountain can't withstand this abuse.

   (additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? pumping from this well be curtailed and the State denie any such permit for pumping

   _____

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 16 day of May, 2001.

_____
Protestant

_____
Protestant's Representative

MICROFILMED
NOV 12 2002

NOTE:

A protestant is required to timely file a protest with the department together with a $25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."

2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.

3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.

4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.

5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.

6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by R&L Date 5-18-01 Time 4:21 PM

$25.00 fee Receipted by R&L # W027773 Date 5-18-01

MICROFILMED
2002

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 18, 2001

James E. Mahoney
53 Settlers Rd
Boise ID 83716

Re: Application For Permit No. 63-31218

Dear Mr. Mahoney:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to the above referenced application. Idaho Department of Water Resources is notifying you of this particular protest before the protest period expiration date because of the language in the last paragraph.

Besides protesting the issuance of the permit, the protestant is asking that the current illegal diversion of ground water on the Mahoney property be curtailed. In this situation, an investigation is not necessary. The Department is obligated to require adherence to Idaho Water Law when excessive diversion is apparent and reported.

Please notify this office within 14 days from the date of this letter on how you plan to curtail your total diversion amount to meet the domestic limitation of 13,000 gallons per day per I. C. § 42-111.

If you have further questions, please contact me at this office.

Sincerely,

Lori Graves
Sr. Water Agent

Encl: Mangum protest

Cc: Jeff Fereday, Terry Scanlan, Charles Honsinger

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NOV 1 2 2002

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MAY 18 2001

WATER RESOURCES
WESTERN REGION

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

State of Idaho)
)
County of Boise)

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with May 2, 2001 and ending with the issue of May 9, 2001.

Deanna Stevenson

State of Idaho)
)
County of Boise)

On this 11 day of May in the year 2001, before me, a notary public, personally appeared Deanna Stevenson known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Diane E Caughlin
Notary Public for Idaho
Residing at Garden Valley, Idaho

My commission expires 6/26/2001

MICHAEL

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-31218

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

Point(s) of Diversion SENE S32 T05N R04E BOISE County
Source GROUNDWATER,
GROUNDWATER
Point(s) of Diversion SENE S32 T05N R04E BOISE County
Source GROUNDWATER,
GROUNDWATER

Use: DOMESTIC	01/01 To 12/31	0.04 CFS	32 AFA
Use: HEATING	01/01 To 12/31	0.04 CFS	32 AFA
Use: IRRIGATION	03/15 To 11/15	0.06 CFS	32 AFA
Use: DIVERSION TO STORAGE	01/01 To 12/31	0.14 CFS	32 AFA
Use: AESTHETIC STORAGE	01/01 To 12/31	0.14 CFS	20 AFA
Use: RECREATION STORAGE	01/01 To 12/31	0.14 CFS	20 AFA
Use: WILDLIFE STORAGE	01/01 To 12/31	0.14 CFS	20 AFA
Use: FIRE PROTECTION STORAGE	01/01 To 12/31	0.14 CFS	20 AFA
Total Diversion:		0.14 CFS	20 AFA

Date Filed: 03/23/2001
Place of Use: DOMESTIC
T05N R04E S32 SENE

Place of Use: HEATING
T05N R04E S32 SENE

Place of Use: IRRIGATION
T05N R04E S32 SENE

Number of Acres 2
Place of Use: DIVERSION TO STORAGE
T05N R04E S32 SENE

Place of Use: AESTHETIC STORAGE
T05N R04E S32 SENE

Place of Use: FIRE PROTECTION STORAGE
T05N R04E S32 SENE

Remark: Mitigation is proposed for consumptive use.
Water bearing zone to be appropriated is from 165 to 338 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of $25.00 for each application on or before 05/21/2001. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director

Published In The Idaho World May 2 and 9, 2001

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MAY 17 2001

WATER RESOURCES
WESTERN REGION

Notice of Protest

1. Water Right Number: Permit number: 63-31218/ water right number: 63-00270
2. Name of Protestant: Kevin Smith and Debra Borley
3. No Difference from Protestant
4. Service Mailing Address: 70 Settlers Road, Boise ID 83716
5. Service Telephone Number: (208) 392-4921
6. Basis of Protest: Idaho Code 42-237(a) and State Water Plan section 1H. Concern that ground water recharge may not be sufficient to mitigate the requested use. Concern that damage may occur to water rights and supplies within the immediate area impacted by this water usage.
7. What would resolve your protest?

    1. Provide performance test of heat pump water reinjection into existing 8 inch well to prove ability to handle 6 months of reinjection without need to divert to surface water.

    2. Mandatory heat pump reinjection from Nov. 1st to April 30th each year and no other consumptive use allowed during this period (i.e. pond filling , heat pump surface water supplementation, or irrigation).

    3. A legal instrument in place to require negation of consumptive pumping rights if a trend in ground water depletion is demonstrated in any surrounding wells.

    4. A legal instrument in place that requires the water right owner be responsible for any adverse effects to other property owner's water rights (including domestic water usage) that may be adversely affected by this consumptive use, to include attorney fees.

    5. A ground water level monitoring program for all wells within a one mile radius. Testing to occur quarterly and results provided to all well owners.

Kevin Smith

Debra Borley

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NOV 12 2002

11/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224. Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested _____

2. Name of protestant _____

3. Protestant's Representative for service (If different than protestant)

_____

4. Service mailing address _____

5. Service telephone no. _____

6. Basis of protest (including statement of facts and law upon which the protest is based)

_____

_____

_____

_____

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? _____

_____

_____

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 18 day of MAY, 2001.

Kevin D. Smith
Protestant

_____
Protestant's Representative

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SEP 12 2002

NOTE:

A protestant is required to timely file a protest with the department together with a $25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."

2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.

3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.

4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.

5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.

6. Specifically describe the nature of the protest.

7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by _____ Date 5/18/01 Time 10:27

$25.00 fee Receipted by _____ # W027770 Date 5/18/01

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RINGERT CLARK
CHARTERED LAWYERS

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MAY 09 2001
WATER RESOURCES
WESTERN REGION

RECEIVED
MAY - 9 2001
Department of Water Resources

Laura E. Burri
Jeffrey R. Christenson
D. Blair Clark
Michael J. Doolittle
S. Bryce Farris
Patrick D. Furey
David Hammerquist
Charles L. Honsinger
Joseph B. Jones
James P. Kaufman
Jennifer Reid Mahoney
James G. Reid
William F. Ringert
Daniel V. Steenson
Allyn L. Sweeney

Samuel Kaufman (1921-1986)

TO: **IDAHO DEPARTMENT OF WATER RESOURCES**

FROM: **CHARLES L. HONSINGER** **DATE:** **5/8/01**

RE: **IN THE MATTER OF APPLICATION FOR WATER RIGHT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY**

(1) ORIGINAL and 1 copy of Protest
(2) Check in the amount of $25.00 for filing fee

__	FOR YOUR INFORMATION	✓	FILE ORIGINAL & CONFORM COPY
__	FOR YOUR FILE	__	PLEASE REPLY FOR MY SIGNATURE
__	PLEASE FILE	__	PLEASE ANSWER AND SEND COPY OF LETTER TO ME
__	IN ACCORDANCE WITH YOUR REQUEST	__	PLEASE RECORD AND RETURN
__	PLEASE COMMENT	__	RUSH
__	PLEASE SIGN AND RETURN	__	AS PER OUR PHONE CONVERSATION
__	PLEASE TELEPHONE/SEE ME	__	PLEASE REVIEW AND CALL TO DISCUSS

REMARKS: Please file the original, conform the enclosed copy and return it in enclosed pre-paid envelope. Thank you, Kimi White.

MICROFILMED
MAY 1 2 2002

455 South Third Street • P.O. Box 2773 • Boise, Idaho 83701 • 208/342-4591 FAX 342-4657

RECEIVED
MAY - 9 2001
Department of Water Resources

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Francis and Shirley Mangum

RECEIVED
MAY 09 2001
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR WATER RIGHT NUMBER 63-31218 IN THE NAME OF JAMES E. MAHONEY	PROTEST

COMES NOW, Francis and Shirley Mangum (hereinafter referred to as "Protestants"), by and through their attorneys, Ringert Clark, Chartered, and hereby protest the Application for Permit No. 63-31218 to appropriate the public waters of the State of Idaho filed by James E. Mahoney. Protestants request that the Director of the Idaho Department of Water Resources (hereinafter referred to as "IDWR") deny such permit.

The grounds for this protest are that current illegal pumping from the existing well from which water right no. 63-31218 is proposed to be diverted negatively impacts the sources for Protestants' water right numbers 63-05309 and 63-05057. Thus, the proposed water right will reduce the quantity of water under existing water rights. Additionally, the water supply is insufficient for the purposes for which it is sought to be appropriated; the proposed right will conflict with the local public interest; and the proposed right is contrary to the conservation of the water resources within the State of Idaho.

SCANNED
OCT 12 2012

To resolve their protest, Protestants request both that the permit application be denied, and, pursuant to the authority granted IDWR by I.C. §42-351, that the current illegal diversion of water from the existing well on the Mahoney property be curtailed.

Respectfully submitted this 8th day of May, 2001.

RINGERT CLARK, CHARTERED

Charles L. Honsinger
Attorney for Francis and Shirley Mangum

CERTIFICATE OF SERVICE

I certify that on the 8th day of May, 2001, I mailed the original and copies of this document, including all attachments to the following:

Jeffrey C. Fereday
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701

Charles L. Honsinger

MICROFILMED
NOV 1 2 2002

Idaho Department of Water Resources Receipt

Receipt ID C053637

Payment Amount	$25.00	**Date Received**	5/9/01 1:17:41 PM	**Region**	State	**Status**	
Payment Type	Check	**Check Number**	28088				

Payer RINGERT CLARK CHARTERED

Comment WATER RIGHT NO 63-31218

Fee Detail

Amount	Description	Fund	FD	PCA	SO
$25.00	PROTESTS	0229	21	56103	1155

Signature Line (Dept. Representative)

MICRO
MAY 17 2001

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

April 30, 2001

FRANCIS MANGUM
17 OLD MILL RD
BOISE ID 83716

Re: Application for Water Right No. 63-31218 in the Name of James E. Mahoney.

Dear Sir and/or Madam:

Enclosed are copies of the above-referenced applications for permit which may be of interest to you. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if you desire to file a formal protest against the approval of this application(s), your written protest along with the $25.00 protest fee must be received in this office by May 21, 2001.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

Gary Spackman

GS:lm

Encl: Copy of Application

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

April 30, 2001

ROB & PAM SMOLCZYNSKI
75 SETTLERS RD
IDAHO CITY ID 83631

Re: Application for Water Right No. 63-31218 in the Name of James E. Mahoney.

Dear Sir and/or Madam:

Enclosed are copies of the above-referenced applications for permit which may be of interest to you. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if you desire to file a formal protest against the approval of this application(s), your written protest along with the $25.00 protest fee must be received in this office by May 21, 2001.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

Gary Spackman

GS:lm

Encl: Copy of Application

MICROFILMED

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

May 7, 2001

ROB &/OR PAM SMOLCSYNKSI
75 SETTLERS RD
BOISE ID 83716

Re: Application for Water Right No. 63-31218 in the Name of James E. Mahoney.

Dear Sir and/or Madam:

Enclosed are copies of the above-referenced applications for permit which may be of interest to you. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if you desire to file a formal protest against the approval of this application(s), your written protest along with the $25.00 protest fee must be received in this office by May 21, 2001.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

Gary Spackman

GS:lm

Encl: Copy of Application

RECEIVED
MAY 14 2001

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 30, 2001

LEE SISCO
WATER DISTRICT 63
6616 OVERLAND RD
BOISE ID 83709

Re: Application for Water Right No. 63-31218 in the Name of James E. Mahoney.

Dear Watermaster:

Enclosed is a copy of the above-referenced application for permit. Also enclosed is a form for your recommendation concerning this application.

Please review the application. We must have your comments within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

Gary Spackman

Gary Spackman

GS:lm

Encl: Copy of Application

MICROFILMED
MAY 12 2001

RECEIVED
MAR 2 3 2001
WATER RESOURCES
WESTERN REGION

GIVENS PURSLEY LLP

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jacqueline M. Fearnside
Timothy P. Fearnside
Jeffrey C. Fereday
Amanda L. Keating
Karl T. Klein
Debora K. Kristensen
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Virginia L. Stukel
Conley Ward
Stephania C. Westermeier
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

March 23, 2001

Gary L. Spackman
Western Region Director
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Mahoney application, including mitigation plan
Our file: 5810-1

Dear Gary:

I am enclosing an Application for Water Right Permit on behalf of James E. ("Ed") Mahoney, along with a $100 check to cover the application fee. You will note that this application involves a mitigation plan to cover any potential depletions to the Boise River that Mr. Mahoney's 0.14 cfs ground water right might cause.

I want to stress that we do not have any clear evidence that such a depletion would occur, but in the interests of getting this application processed, Mr. Mahoney has purchased an 1865-priority surface water right that will be retired to cover any potential future depletions that may occur during the irrigation season. We do not believe that a transfer application is required for this mitigation plan, but please let us know if you have another view.

Thanks for your attention to this, and please call with any questions.

Sincerely,

Jeffrey C. Fereday

JCF/nlg
Encls.
cc: Steve Lester
Ed Mahoney
Terry Scanlan

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NOV 1 2 2002

Idaho Department of Water Resources Receipt

Receipt ID W027487

Payment Amount	$100.00	**Date Received**	3/23/01 4:07:48 PM	**Region**	Western	**Status**	
Payment Type	Check	**Check Number**	0029530				

Payer GIVENS PURSLEY LLP FOR JAMES MAHONEY

Comment APPLICATION FOR PERMIT

Fee Detail

Amount	Description	Fund	FD	PCA	SO
$100.00	PERMITS	0229	21	62103	1155

Lisa Mattson

Signature Line (Dept. Representative)

MICROFILMED
APR 12 2002

RESIDENTIAL SPACE HEATING/COOLING REQUIREMENTS FOR COLD OR GEOTHERMAL SOURCES

Worksheet created by Cindy Hodges, 11/93.

Data entered by: Dan Nelson
Exam Date: 05/13/99
File No: Boise City National Bank
Computations for: cooling

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NOV 12 2002

REQUIRED DATA:

Area of livable floor space, ft2 (A)	5000
2 story? (N=1, Y=2)	2
House efficiency factor (e) *	0.28
Inside design temperature (Ti)	70
Average outside temperature (To) **	42
Source temperature, degrees F (S)	53
Heating/cooling days per season (D)	365
Hours/day system operates (H)	24

********** ********** **********

* e values are as follows:

0.28 Best energy efficiency - extra insulation, caulked and weatherstripped, with storm windows and doors
0.44 Better energy efficiency - standard insulation, caulked and weatherstripped, with storm windows and/or doors
0.67 Average residence - standard insulation, no weatherproofing but with storm windows or double panes
1.11 Poor energy efficiency - minimal insulation, no weatherproofing or storm windows (older homes, shops or greenhouses)

** Suggested average outside temperatures:

WINTER	SUMMER
4 deg F Boise	80 deg F Boise
6 deg F Grand View	90 deg F Grand View
-8 deg F Cascade	70 deg F Cascade

********** ********** **********

CALCULATED DATA:

DESIGN HEAT LOAD (BTU/hr required)
Formula: E = [e x (Ti - To)] A
Applies factor of 0.8 for two-story dwelling

E = 31,360 BTU/hour

TEMPERATURE DROP ACROSS SYSTEM
Formula: Ts = 0.3 x [S - Ti]

Ts = 5.1 degrees F

FLOW RATE REQUIRED (at given source temperature)
Formula: Q = E/(500 x Ts) x 448.8

Q = 0.03 cfs

DIVERTED VOLUME OVER SEASON
Formula: Vdiv = Q x D x H/24 x 1.9835

Vdiv = 19.8 AFA

```
AVERAGE TEMPERATURE CALCULATION:

4 DEG MIN +  80 DEG HIGH / 2 =

42 DEG AVERAGE YEAR ROUND TEMP.
```

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 26, 2001

Legal Notice Department
Idaho World
PO Box 99
Garden Valley ID 83622

RE: Application for Permit No. 65-22365 and 63-31218

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 05/21/2001. Your cooperation is appreciated.

Sincerely

Sue Taylor
Senior Secretary

MICROFILMED
NOV 1 7 2001

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-31218

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

Point(s) of Diversion SENE	S32	T05N R04E	BOISE County	Source GROUNDWATER, GROUNDWATER	
Point(s) of Diversion SENE	S32	T05N R04E	BOISE County	Source GROUNDWATER, GROUNDWATER	
Use: DOMESTIC	01/01 To 12/31	0.04 CFS	32 AFA		
Use: HEATING	01/01 To 12/31	0.04 CFS	32 AFA		
Use: IRRIGATION	03/15 To 11/15	0.06 CFS	32 AFA		
Use: DIVERSION TO STORAGE	01/01 To 12/31	0.14 CFS	32 AFA		
Use: AESTHETIC STORAGE	01/01 To 12/31	0.14 CFS	20 AFA		
Use: RECREATION STORAGE	01/01 To 12/31	0.14 CFS	20 AFA		
Use: WILDLIFE STORAGE	01/01 To 12/31	0.14 CFS	20 AFA		
Use: FIRE PROTECTION STORAGE	01/01 To 12/31	0.14 CFS	20 AFA		
Total Diversion:		0.14 CFS	20 AFA		

Date Filed: 03/23/2001

Place Of Use: DOMESTIC

T05N R04E S32 SENE

Place Of Use: HEATING

T05N R04E S32 SENE

Place Of Use: IRRIGATION

T05N R04E S32 SENE

Number of Acres 2

Place Of Use: DIVERSION TO STORAGE

T05N R04E S32 SENE

Place Of Use: AESTHETIC STORAGE

T05N R04E S32 SENE

Place Of Use: FIRE PROTECTION STORAGE

T05N R04E S32 SENE

Remark: Mitigation is proposed for consumptive use.
Water bearing zone to be appropriated is from 165 to 338 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of $25.00 for each application on or before 05/21/2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on May 2 and 9, 2001.

MICROFILMED
NOV 1 7 2008







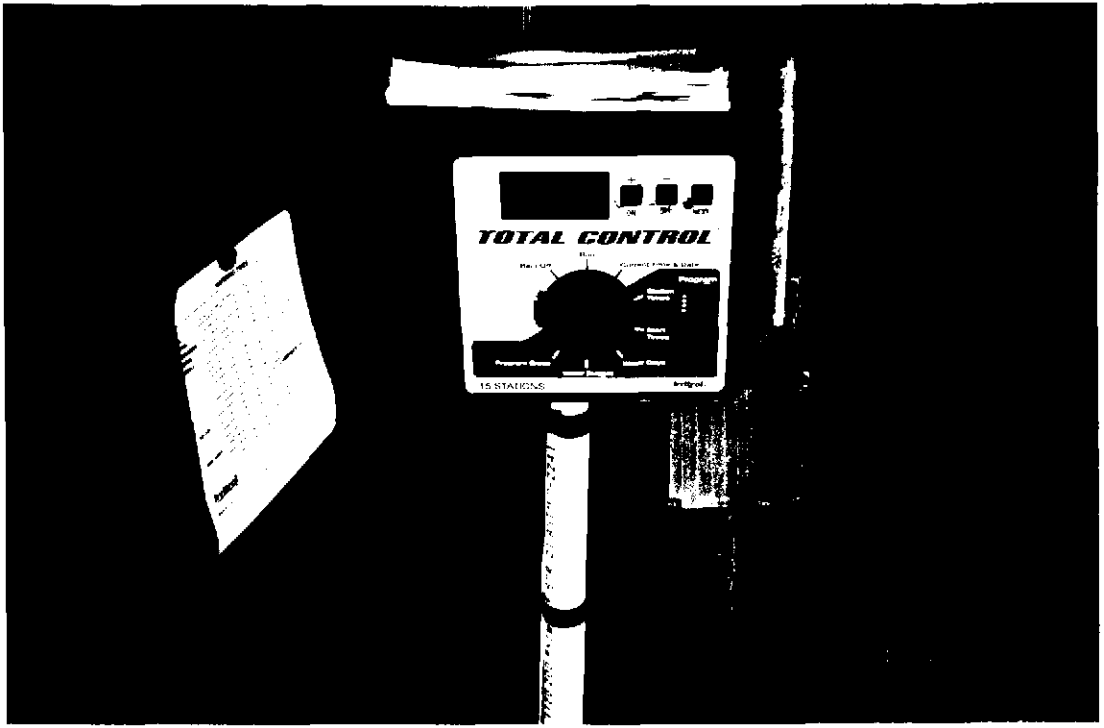


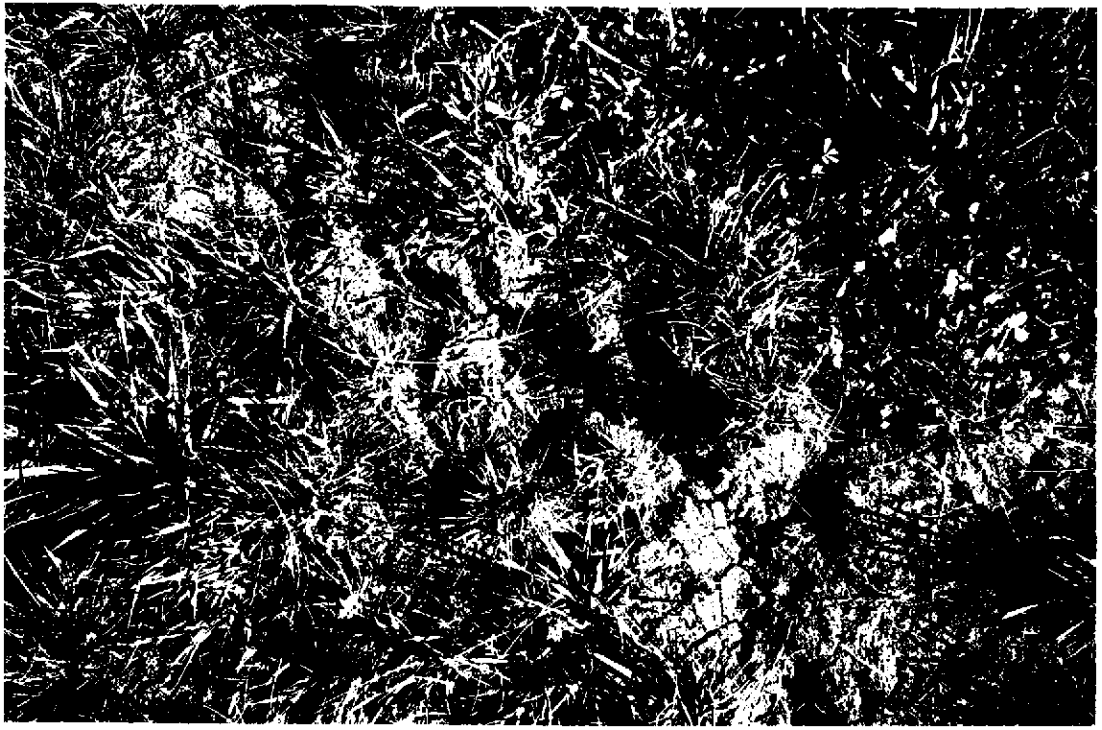

8.22.01








TOTAL CONTROL
15 STATIONS





VISTA VILLAGE

175650

☐ **File Letter**

IDAHO DEPARTMENT OF WATER RESOURCES

DATE	8/22
TIME IN	
TIME DUE	
CLERK	21
TWIN CHEC	

1726

NAME _____

ADDRESS Lori

CITY/STATE _____ PHONE _____

FILM TYPE	FILM SIZE	EXPOSURES	ASA	REPRINTS/ENLARGEMENTS
				NEG. NO. QUAN.
☐ KODAK	☐ DISC	☐ 12	☐ 100	☐ WALLETS ___ ___
☐ FUJI	☐ 110	☐ 15	☐ 200	☐ REPRINTS ___ ___
☐ 3M	☐ 126	☐ 20	☐ 400	☐ 4x6 ___ ___
☐ AGFA	☐ 135	☐ 24	☐ 1000	☐ 5x7 ___ ___
☐ KONICA		☐ 36	☐ _____	☐ 8x10 ___ ___
☐ OTHER				☐ 11x14 ___ ___
_____	_____ OTHER	_____ OTHER		☐ 16x20 ___ ___

9

SPECIAL INSTRUCTIONS

4x

NO. OF PRINTS 1

PRINT SIZE:
3½x5 ☐
4x6 ☐

GLOSSY ☐
MATTE ☐

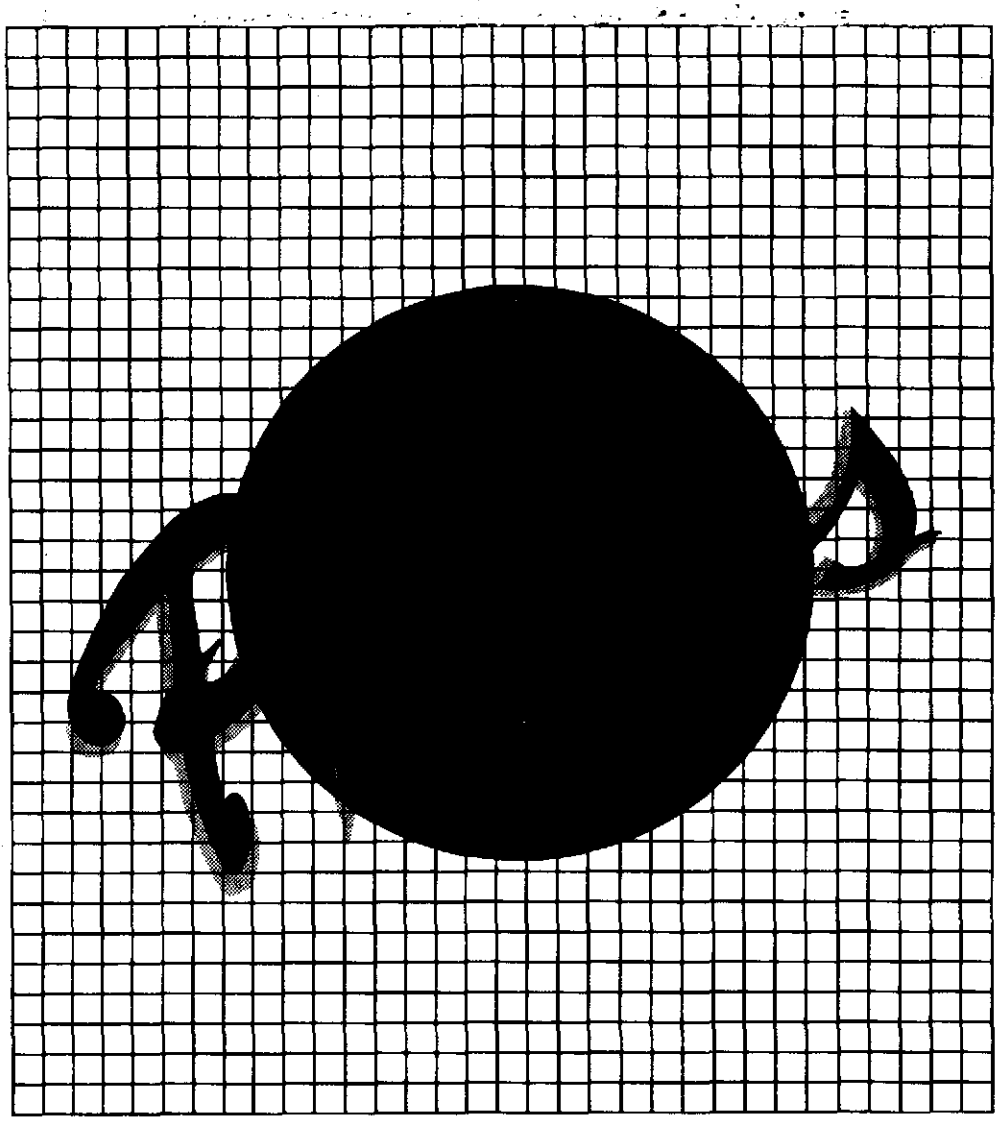
LAB USE ONLY

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TAX	
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C175650C

IDAHO CAMERA

quential damages is excluded.



IDAHO CAMERA

VISTA VILLAGE

936 Vista Village

343-8075

Applicants 1-100
Protestants 100-200
Smith + Barley 200-300

Exhibits

Exhibit #1 - Application For Permit (Ed Mahoney)
Exhibit #3 - Timeline of H_2O Related Events
Exhibit #2 - Digitized Version of Neighborhood (Wells, Depth)
Exhibit #8 - Geology of the Boise Basin Vicinity
Exhibit #4 - Investigation of Ground H_2O Conditions + Well Interference.
Exhibit #7 - Analysis of Mahoney Aquifer Test Results
Exhibit #100 - Arial Map - F.S. 7/11/88
Exhibit #101 - Arial Map - F.S. 8/21/96
Exh. #201 - Arial Map of

Exhibits:	Admitted	Denied
1.	✓	
2.	✓	
3.	✓	
4.	✓	
7.	✓	
8.	✓	
100.	✓	
101.	✓	
201.	✓	

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NOV 12 2003

FORM 202
2/96

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant James E. Mahoney Phone 208-342-4490
   Mailing address 53 Settlers Road, Boise, ID 83716
2. Source of water supply ground water which is a tributary of NA
3. Location of point of diversion is Township 5N Range 4E Sec. 32, in the _____ 1/4, SE 1/4, NE 1/4, Govt. Lot _____, B.M., _____ County;
   additional points of diversion if any: two wells, both in the SENE Sec. 32
4. Water will be used for the following purposes:

Amount 0.040 (cfs or acre-feet per annum)	for domestic	purposes from	1/1	to 12/31	(both dates inclusive)
Amount 0.040 (cfs or acre-feet per annum)	for heating	purposes from	1/1	to 12/31	(both dates inclusive)
Amount 0.060 (cfs or acre-feet per annum)	for irrigation	purposes from	4/1	to 10/31	(both dates inclusive)
Amount 0.140 (cfs or acre-feet per annum)	for diversion to storage	purposes from	1/1	to 12/31	(both dates inclusive)
Amount 20.0 (cfs or acre-feet per annum)	for storage for aesthetics, recreation, wildlife & fire protection	purposes from	1/1	to 12/31	(both dates inclusive)
Amount _____ (cfs or acre-feet per annum)	for _____	purposes from	_____	to _____	(both dates inclusive)

5. Total quantity to be appropriated is (a) 0.140 cubic feet per second and/or (b) 20.0 acre feet per annum
6. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source two wells with submersible pumps and buried pipe to house and irrigation
   b. Height of storage dam 0 feet; active reservoir capacity 0 acre-feet; total reservoir capacity 15 acre-feet
   c. Proposed well diameter is 6 & 8 inches; proposed depth of well is 263 & 338 feet
   d. Is ground water with a temperature of greater than 85° F being sought? no
   e. If well is already drilled, when? 1997 & 99 Drilling firm SOS;
   Well was drilled for (well owner) Mahoney; Drilling Permit No. D0001385 D0012412
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (*minimum 1 year*)
8. Description of proposed uses (*if irrigation only, go to item 9*):
   a. Hydropower; show total feet of head and proposed capacity in KW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; show name of municipality. _____
   d. Domestic; show number of households. one home plus guest house
   e. Other; describe fully. heat pumps for both houses, recreation (fishing), wildlife, aesthetic, and fire protection at 3-acre natural pond

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NOV 1 2 2002

Exhibit #1

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	4E	32				2													2
		32				D,G													
		32				R,J													
		32				W													

Total number of acres to be irrigated 2

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? applicant

b. Who owns the land to be irrigated or place of use? applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Remarks: see attached remarks & mitigation plan

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Jon E Mchenry

Signature of Applicant (and title, if applicable)

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee $ _____ Receipted by _____ # _____ Date _____

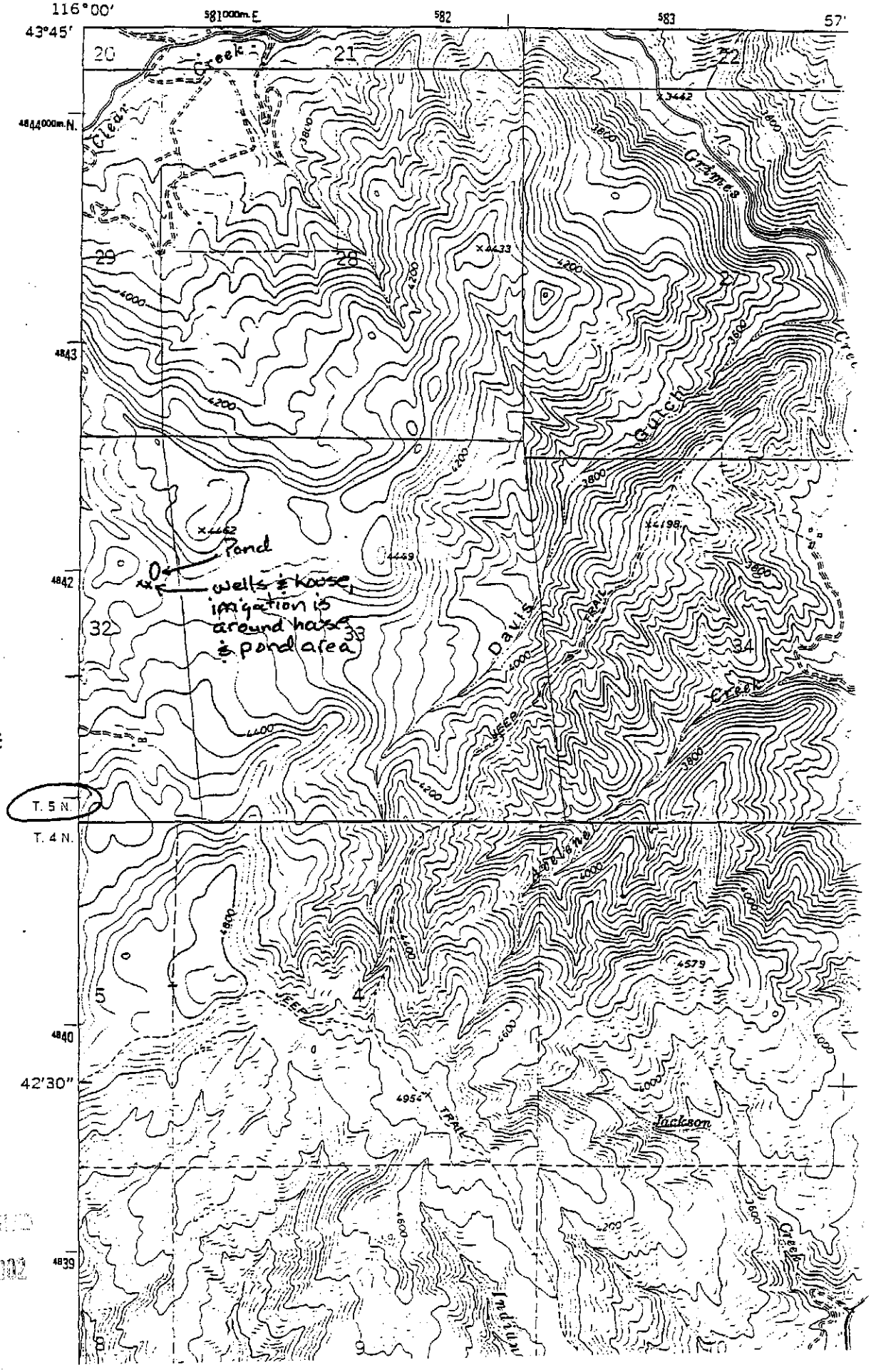
Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

BOY 1 2 2008

2771 I SE
(SHAFER BUTTE)

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



MICROFILMED
NOV 1 2 2002

PERMIT APPLICATION REMARKS AND MITIGATION PLAN

The ground water involved in this application serves a residential property containing a main house, a guest house, approximately two acres of irrigated landscaping, and a pond with an average natural size of about 1.5 acres. Water is used for heat pumps, in-home purposes, lawn and landscape irrigation, and, through pond level maintenance, recreation, wildlife, and aesthetic purposes.

Two wells are utilized on the property [illegible] pply the two residences for domestic pu[illegible] pumps). An 8-inch well is us[illegible] nce.

Th[illegible] 0 acre feet
an[illegible] to the pond,
wh[illegible] e of the heat
pu[illegible] 8-inch well.
Add[illegible] re feet
annu[illegible] water for
an es[illegible] for
lands[illegible] n-home
domes[illegible] Thus,
ground[illegible] ually.

Of the e[illegible]duced, only a portion is
consum[illegible] evapotranspiration of landscape
irrigatio[illegible] pond surface; these are estimated as a
combine[illegible] than 3 feet per acre annually. Assuming water use by 2 acres of l[illegible]scape irrigation and 1.5 acres of pond surface, total consumptive use of groundwater is less than 10 acre feet annually. (For purposes of consumptive use calculations, a 1.5-acre pond surface is assumed because under pre-development conditions the pond surface seasonally fluctuated between 0 and 3 acres. Therefore, an average of 1.5 acres of pond surface was a pre-existing condition). Unconsumed water returns to the groundwater system through pond-bottom seepage, infiltration of excess irrigation water, reinjection of heat pump water, or infiltration from the septic tank drain field.

The aquifer tapped by the two wells is believed to be tributary to Clear Creek and ultimately, (via Grimes Creek and Mores Creek) the Boise River, although there is little hydrological information to confirm this. But even assuming a connection, consumptive water use under the proposed permit is anticipated to have little immediate effect on the flow in Clear Creek, Mores Creek, or the Boise River.

However, the applicant proposes to mitigate any potential impact of consumptive water use by purchasing a surface water right that is tributary to the Boise River. Subject to further hydrological data, the purchased water right would need to have an annual consumptive use of approximately 10 acre feet. The purchased

MICROFILMED
NOV 22 2002

PERMIT APPLICATION REMARKS AND MITIGATION PLAN

The ground water involved in this application serves a residential property containing a main house, a guest house, approximately two acres of irrigated landscaping, and a pond with an average natural size of about 1.5 acres. Water is used for heat pumps, in-home purposes, lawn and landscape irrigation, and, through pond level maintenance, recreation, wildlife, and aesthetic purposes.

Two wells are utilized on the property. A 6-inch well is used to supply the two residences for domestic purposes (culinary purposes and two heat pumps). An 8-inch well is used for landscape irrigation and pond level maintenance.

The heat pump water usage from the 6-inch well is approximately 10 acre feet annually. After passing through the heat pump, this water flows into the pond, where it helps maintain the pond level. During winter months, some of the heat pump water also could be injected back into the aquifer through the 8-inch well. Additional pond-level maintenance water, totaling an estimated 10 acre feet annually, is added from the 8-inch well. The 8-inch well also supplies water for an estimated 2 acres of landscape irrigation. Ground water diversions for landscape irrigation are estimated at 7 acre feet annually (3.5 af/ac). In-home domestic water use probably amounts to one acre foot or less annually. Thus, groundwater production is estimated at approximately 28 acre feet annually.

Of the estimated 28 acre feet of ground water annually produced, only a portion is consumptively used. Consumptive use occurs as evapotranspiration of landscape irrigation and evaporation from the pond surface; these are estimated as a combined total of less than 3 feet per acre annually. Assuming water use by 2 acres of landscape irrigation and 1.5 acres of pond surface, total consumptive use of groundwater is less than 10 acre feet annually. (For purposes of consumptive use calculations, a 1.5-acre pond surface is assumed because under pre-development conditions the pond surface seasonally fluctuated between 0 and 3 acres. Therefore, an average of 1.5 acres of pond surface was a pre-existing condition). Unconsumed water returns to the groundwater system through pond-bottom seepage, infiltration of excess irrigation water, reinjection of heat pump water, or infiltration from the septic tank drain field.

The aquifer tapped by the two wells is believed to be tributary to Clear Creek and ultimately, (via Grimes Creek and Mores Creek) the Boise River, although there is little hydrological information to confirm this. But even assuming a connection, consumptive water use under the proposed permit is anticipated to have little immediate effect on the flow in Clear Creek, Mores Creek, or the Boise River.

However, the applicant proposes to mitigate any potential impact of consumptive water use by purchasing a surface water right that is tributary to the Boise River. Subject to further hydrological data, the purchased water right would need to have an annual consumptive use of approximately 10 acre feet. The purchased

MICROFILMED
NOV 12 2002

water right will be retired as mitigation for this application.

Applicant has located a suitable surface water right and has signed a purchase and sale agreement with its owner pursuant to which Applicant is entitled to file this application seeking use of the right in a mitigation plan. The Water Right Purchase and Sale Agreement is attached to this Application, along with its exhibits which contain information about this surface water right. The surface water right is no. 63-00270, which is a decreed, 1865-priority irrigation right which currently is being used in the Eagle area. The surface water right is calculated to provide an annual diversion entitlement of 13.5 acre-feet for use on three acres. Applicant requests that the Department process this permit application as an application with a mitigation water component. If the Department deems it necessary, Applicant will submit a transfer application or other documentation to secure its permit.

RECEIVED
NOV 12 2002

WATER RIGHT PURCHASE AND SALE AGREEMENT

This Water Right Purchase and Sale Agreement ("Agreement") is made and entered into this 15th day of March, 2001, in Ada County, State of Idaho, by and between Sylvan and Barbara Williamson, husband and wife, whose address is 850 Williamson Lane, Eagle, Idaho 83616 ("Seller") and James E. Mahoney, whose address is 53 Settlers Road, Boise, Idaho 83716 ("Buyer").

Recitals

1. Seller owns water right number 63-00270, a decreed Boise River natural flow irrigation water right serving approximately 300 acres with a priority date of April 1, 1865, which is evidenced by, among other things, Snake River Basin Adjudication claim number A63-00270, a copy of which is attached as Exhibit A.

2. Buyer wishes to purchase from Seller, and Seller wishes to sell to Buyer, that portion of water right 63-00270 necessary to deliver a water flow rate of 0.06 cubic feet per second during the irrigation season and an annual diversion volume of 13.5 acre-feet for irrigation of 3 acres (such portion hereinafter referred to as the "Water Right").

Agreement Terms

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, Seller and Buyer agree as follows:

3. **Sale of the Water Right.** Seller agrees to sell the Water Right described in paragraph 2, above, to Buyer, and Buyer agrees to purchase it, pursuant to the terms of this Agreement.

4. **Transfer of Water Right in connection with Buyer's permit application.** Buyer is acquiring the Water Right to transfer or otherwise use it as mitigation in connection with a ground water permit and license sought by the Buyer for lands located in Boise County, Idaho, and more particularly described as: the SE 1/4 of the NE 1/4 of Section 32, T5N, R4E, B.M. Accordingly:

a. Within 30 days after the date of this Agreement, Buyer at his own expense shall apply for and diligently pursue authorization from the Idaho Department of Water Resources ("Department") to retire the Water Right, or to change and/or transfer the place of use, nature of use, and/or point of diversion under the Water Right, as part of Buyer's application for a permit to use ground water (the "permit application").

b. At Buyer's request, Seller shall execute any documents pertaining to Seller's diversion, use, and/or ownership of the Water Right which Buyer deems necessary to support the permit application.

5. **Seller's obligation to cease using Water Right.** After the Department approves the permit application involving Buyer's use of the Water Right, the Water Right shall be used solely for Buyer's purposes as specified in the approved permit, transfer or other Department documentation, and Seller shall:

a. cease all diversions and uses under the Water Right; and

b. dry up and not irrigate the following parcel of irrigated land to which the Water Right was appurtenant, containing three acres, more or less, and more fully described on Exhibit B, provided, that nothing in this paragraph 5 shall prohibit Seller from transferring another valid water right for use on such parcel pursuant to law.

6. **Purchase price.** The purchase price for the Water Right is $9000.00, to be paid in two installments as follows:

a. An initial payment of $500.00, the receipt of which Buyer hereby acknowledges, as a non-refundable down payment.

b. At closing, a final payment of $8500.00 upon the Department's final approval of the permit application by recognizing Buyer as entitled to receive credit for or transfer to Buyer's use (as the case may be) a water diversion rate and an annual volume of diversions under the Water Right of not less than 0.06 cfs and 13.5 acre-feet, respectively. Buyer's obligation to make the final payment is conditioned on the provisions of paragraph 7, below.

7. **Conditions entitling Buyer to cancel contract.** If the Department denies Buyer's permit application, or if it is finally denied after appeal, Buyer may, at Buyer's sole option and discretion, either: a) cancel this Agreement or b) continue with the purchase of the water right at the full purchase price. If Buyer elects to cancel this Agreement, Buyer shall, within 30 days after such denial or unsuccessful appeal, notify Seller in writing of this election, withdraw those portions of the permit application pertaining to or relying upon the Water Right, and execute any documents necessary to confirm Seller's continued full ownership of the Water Right. Upon taking these steps, this Agreement shall be null and void, and Seller shall retain the $500 down payment.

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8. **Closing.** Closing shall occur at the law offices of Givens Pursley LLP, 277 N. 6th Street, Boise, Idaho within 10 business days after the Department approves the permit application, or at such other time as the parties might mutually establish. At closing, Buyer shall pay Seller the final payment specified above in paragraph 6.b, and Seller shall deliver to Buyer a Grant Deed in the form specified on Exhibit C.

9. **Warranty.** Seller hereby warrants that the Water Right is valid and not forfeited in whole or in part; that Seller has a good and marketable title to the Water Right and the authority to sell it; that upon delivery of the deed in the form described above, Buyer will acquire a good and marketable title to the water right free and clear of liens and encumbrances, options, proxies, charges and any other adverse interests of any kind and nature; and that Seller will abide by all provisions of this Agreement after the closing and conveyance of title, including the dry-up requirement specified in paragraph 5, above. Seller further warrants that all current and past water district or other assessments on the Water Right have been paid in full by Seller and that no further assessments are due and owing as of the date of this Agreement.

10. **Reservation of actions.** Seller shall take no actions which would adversely affect the permit application or Buyer's attempts to gain approval of it or to change the point of diversion, nature, time or place of use of the Water Right in connection with the permit application. Nothing in this Agreement shall be construed so as to prohibit Seller from using, developing, selling, or filing change, transfer or other applications of his own, either individually or in concert with others, with respect to the portion of water right 63-00270 which Seller is retaining.

11. **Binding effect.** This Agreement shall be binding upon the parties hereto and their heirs, successors, administrators and assigns.

12. **Entire agreement.** The foregoing constitutes the full and complete agreement by and between these parties, and shall supersede all prior oral or written discussions or representations between them.

13. **Survival of closing.** The dry-up obligations of this Agreement shall survive the closing and the delivery of a deed of water right to Buyer.

14. **Recitals incorporated.** The above recitals are hereby incorporated as material terms of this Agreement.

15. **Attorney fees.** If either party shall fail to comply with the terms of the Agreement, the non-breaching party shall send written notice and provide a reasonable

opportunity to cure, but not less than ten days. If the breach is not cured within the time allowed, the breaching party agrees to pay all attorney's fees and costs incurred by the non-breaching party. If suit is filed to interpret or enforce this Agreement, the unsuccessful party to such litigation agrees to pay the prevailing party all costs and expenses, including attorney's fees, incurred by the prevailing party whether incurred in district court, on appeal, or in bankruptcy court.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first set forth above.

SELLER:

Sylvan Williamson

Barbara Williamson

BUYER:

James E. Mahoney

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SEP 12 2002

Acknowledgments

STATE OF IDAHO)
) ss.
County of Ada)

On this 15th day of March 2001, before me, a notary public for said state, personally appeared Sylvan Williamson, known or identified to me as the person who executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

NICHOLE LEE GOODWIN NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at: Emmett
My commission expires: 7/24/06

STATE OF IDAHO)
) ss.
County of Ada)

On this 15th day of March 2001, before me, a notary public for said state, personally appeared Barbara Williamson, known or identified to me as the person who executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

NICHOLE LEE GOODWIN NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at: Emmett
My commission expires: 7/24/06

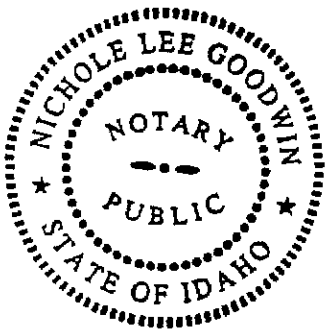
STATE OF IDAHO)
) ss.
County of Ada)

MICRO...

NOV 1 2 2002

On this 15th day of March 2001, before me, a notary public for said state, personally appeared James E. Mahoney, known or identified to me as the person who executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Nichole Lee Goodwin
Notary Public for Idaho
Residing at: Emmett
My commission expires: 7/24/06

MICROFILMED

NOV 12 2002

EXHIBIT A

Water Right Claim
Snake River Basin Adjudication Claim No. A63-00270

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NOV 1 2 2003

Form No. 42-1408 (2) a 1/88 (Intrastate)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number 463-00270
Date Received
Receipt Number W003463

RECEIVED
JUL 07 2000
WATER RESOURCES WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

AMENDED

Please type or print clearly

1. Name of Claimant (s) SYLVAN +/or BARBARA WILLIAMSON Phone (208) 939-6287
   Mailing Address 860 WILLIAMSON LN EAGLE ID 83616 Zip 83616
2. Date of Priority (Only one (1) per claim) 4/1/1865
3. Source of water supply (a) BOISE RIVER
   which is tributary to (b) SNAKE RIVER
4. a. Location of existing point of diversion is: Township 4N Range 1E Section 22,
   ____ 1/4 of SW 1/4 of NE 1/4, Govt. Lot, 6 B.M., County of ADA
   Additional points of diversion if any:
   b. If instream flow, beginning point of claimed instream flow is:
   Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of ____ 1/4,
   Govt. Lot ____ B.M., County of
   ending point is: Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of
   ____ 1/4, Govt. Lot ____ B.M., County of
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. WING DAM, DITCH

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NOV 1 2 2002

6. Water is claimed for the following purposes: (both dates are inclusive) (cfs) (acre feet)

For IRRIGATION purposes from 3/1 to 11/15 amount 6 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 6 (cfs) and/or (b) 1350 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses: describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
4N	1E	15										4	35	10					49
		16													25	5	35	35	100
		21	35	16		4													55
		22					38	38	5	15									96

Total number of acres irrigated 300

11. In which county (ies) are lands listed above as place of use located? ADA

12. Do you own the property listed above as place of use? Yes ✓ No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. _____ or None (✓)

14. Remarks: _____

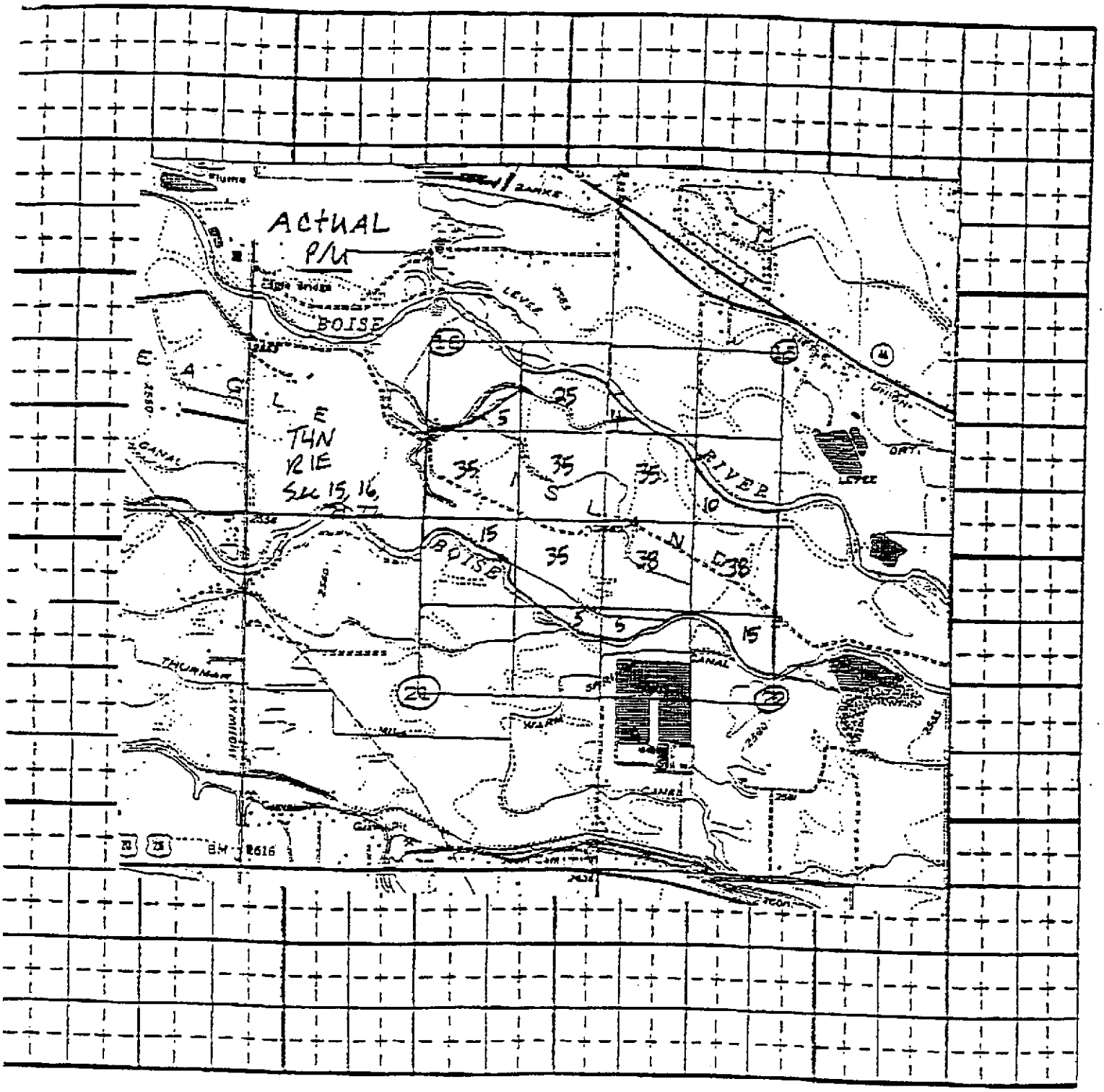
Name _____ Ident No. _____

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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name _____ Ident No. _____

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RECEIVED

OCT 12 2002

15. Basis of Claim (check one) * Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree ✓
If applicable provide IDWR Water Right Number 63-00270
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.
Signature of Claimant (s) Barbara Williamson Date 7-5-2000
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title
of _____ Organization, that I have signed the foregoing document in the space below as _____ Title of _____ Organization and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this 5th day of July 2000

LORI GRAVES NOTARY PUBLIC SEAL STATE OF IDAHO

Notary Public Lori Graves
Residing at Boise
My Commission Expires 6/18/04
Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

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EXHIBIT B

The three acres to be removed from irrigation as part of this water right purchase and sale shall be removed from the NE 1/4 of the NW 1/4 of Section 22, T4N, R1E. The sale of three acres of irrigation water right will reduce the irrigated area claimed under water right A63-00270 from 300 acres to 297 acres. The irrigated acres within the NE 1/4 of the NE 1/4 of section 22 claimed by A63-00270 will be reduced from 38 to 35 acres.

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AUG 1 2 2002

EXHIBIT C

Water Right Grant Deed

When recorded return to:

GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Attn: Jeffrey C. Fereday

WATER RIGHT GRANT DEED

FOR VALUE RECEIVED, Sylvan and Barbara Williamson, husband and wife, (collectively, "Grantor") of Eagle, Idaho, hereby grant, bargain, sell and convey unto Grantee James Ed Mahoney, whose address is 53 Settler's Road, Boise, Idaho 83716, all of Grantor's right, title and interest in and to that portion of decreed water right 63-00270 necessary to deliver a water flow rate of 0.06 cubic feet per second during the irrigation season and an annual diversion volume of 13.5 acre-feet (such portion hereinafter referred to as the "Water Right"). The Water Right heretofore has been diverted and beneficially used by Grantor, and is appurtenant to the real property located in Ada County, Idaho, more particularly described on Exhibit A attached hereto. A copy of the amended SRBA claim evidencing the Water Right is attached hereto as Exhibit B.

TO HAVE AND TO HOLD the Water Right and all of its appurtenances unto the Grantee, its successors and assigns, forever.

The Idaho Department of Water Resources shall be entitled to enter the change in ownership of the Water Right effected hereby upon its records and those of the Snake River Basin Adjudication Court, Fifth Judicial District, in the State of Idaho, in and for the County of Twin Falls, Case No. 39576.

IN WITNESS WHEREOF, the Grantor has caused the Grantor's name to be subscribed to this Grant Deed effective the ___ day of March, 2001.

GRANTOR: SYLVAN WILLIAMSON BARBARA WILLIAMSON

_____ _____

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NOV 1 2 2002

STATE OF IDAHO)
) ss.
County of Ada)

On this ___ day of _____, in the year 2001, before me, a Notary Public in and for the State of Idaho, personally appeared Sylvan and Barbara Williamson, known or identified to me to be the husband and wife who executed the above instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

_____
Notary Public for Idaho
Residing at:
My commission expires:

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NOV 1 2 2002

EXHIBIT A

Legal Description of Real Property to Which the Water Right is Appurtenant

Three acres within the NE 1/4 of the NW 1/4 of Section 22, Township 4 North, Range 1 East. B.M.

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NOV 12 2002

EXHIBIT B

Water Right Claim
Snake River Basin Adjudication Claim No. A63-00270

Form No. 42-1402 (2) a 1/88 (Instructions on reverse)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

CIVIL CASE NUMBER: 39576
Ident. Number 43-00270
Date Received
Receipt Number W003443

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

RECEIVED
JUL 07 2008
WATER RESOURCES WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

AMENDED

Please type or print clearly

1. Name of Claimant (s) SYLVAN +/or BARBARA WILLIAMSON Phone (208) 939-6297
Mailing Address 950 N WILLIAMSON LN EAGLE ID 83616 Zip 83616

2. Date of Priority (Only one (1) per claim) 4/1/1965

3. Source of water supply (a) BOISE RIVER
which is tributary to (b) SNAKE RIVER

4. a. Location of existing point of diversion is: Township 4N Range 1E Section 22,
____ 1/4 of SW 1/4 of NE 1/4, Govt Lot 6 B.M., County of ADA
Additional points of diversion if any: ____

b. If instream flow, beginning point of claimed instream flow is:
Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of ____ 1/4,
Govt Lot ____ B.M., County of ____
ending point is: Township ____ Range ____ Section ____, ____ 1/4 of ____ 1/4 of
____ 1/4, Govt Lot ____ B.M., County of ____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. WING DAM, DITCH

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6. Water is claimed for the following purposes: (both dates are inclusive) (cfs) (acre feet)

For IRRIGATION purposes from 3/1 to 11/15 amount 6 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 6 (cfs) and/or (b) 1350 (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses: describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:
   a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
   b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
												4	35	10					49
4N	1E	15													25	5	35	35	100
		16																	
		21	35	15		5													55
		22					38	38	5	15									96

Total number of acres irrigated 300

11. In which county (ies) are lands listed above as place of use located? ADA

12. Do you own the property listed above as place of use? Yes ✓ No _____
   If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. or None (✓)
   _____

14. Remarks:
   _____

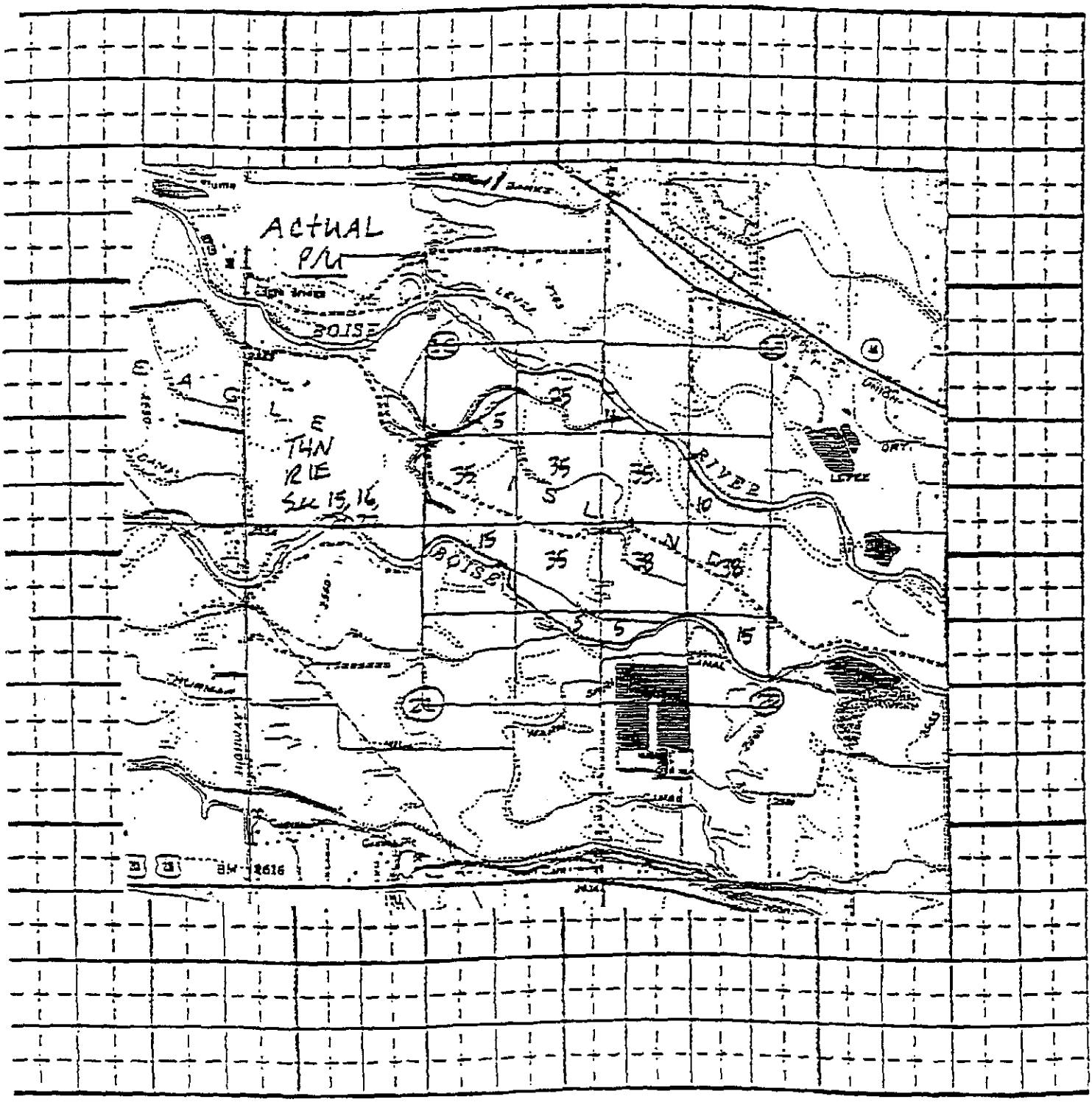
Last Name _____ Ident No. _____

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SEP 12 2002

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name _____ Ident No. _____

NOV 1 2 2002

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree ✓
If applicable provide IDWR Water Right Number 65-00270
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____
For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.
Signature of Claimant (s) Barbara Williamson Date 7-5-2000
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title
of _____ Organization, that I have signed the foregoing
document in the space below as _____ Title of _____ Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this 5th day of July 2000

LORI GRAVES NOTARY SEAL PUBLIC STATE OF IDAHO

Notary Public Lori Graves

Residing at Boise

My Commission Expires 6/18/04

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

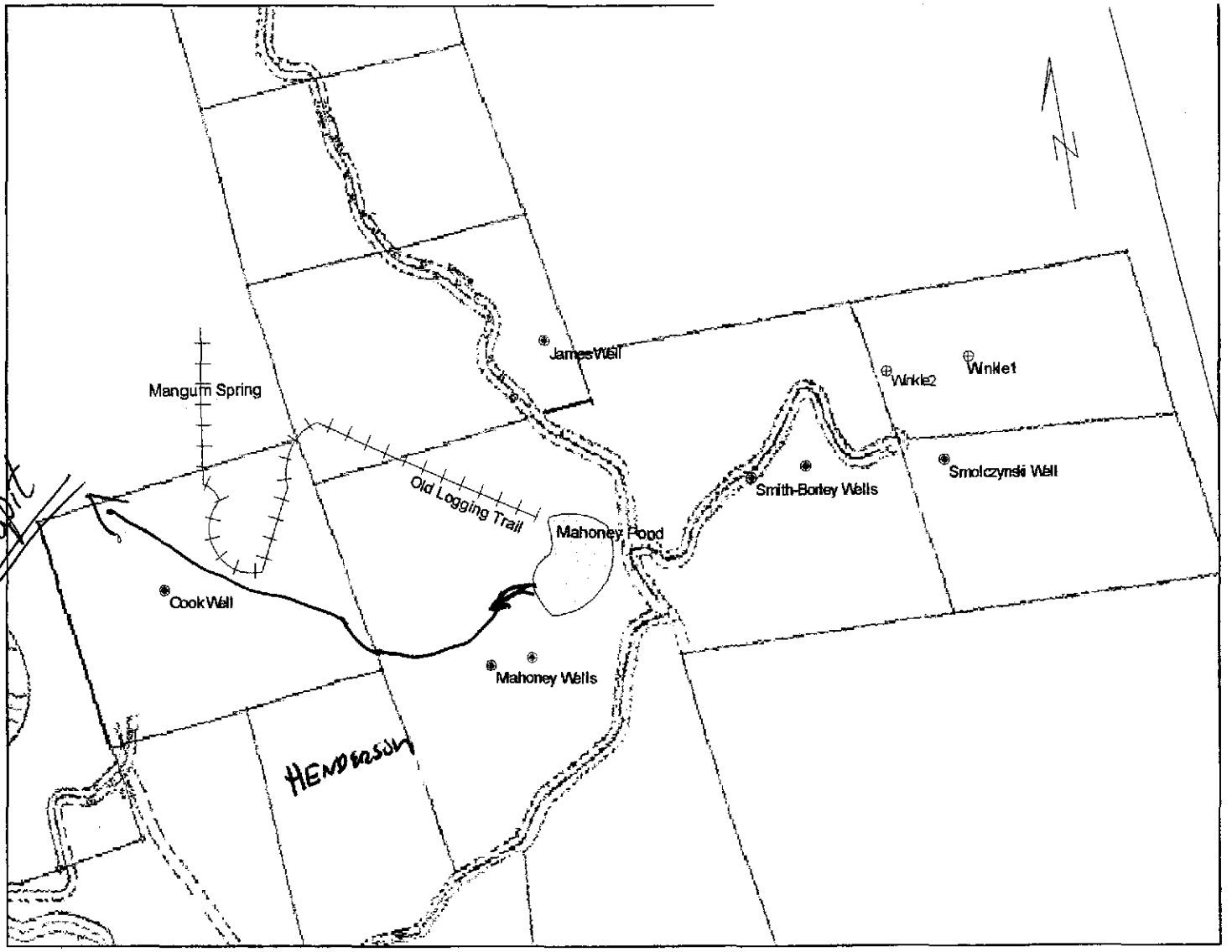
Signature _____

Address _____

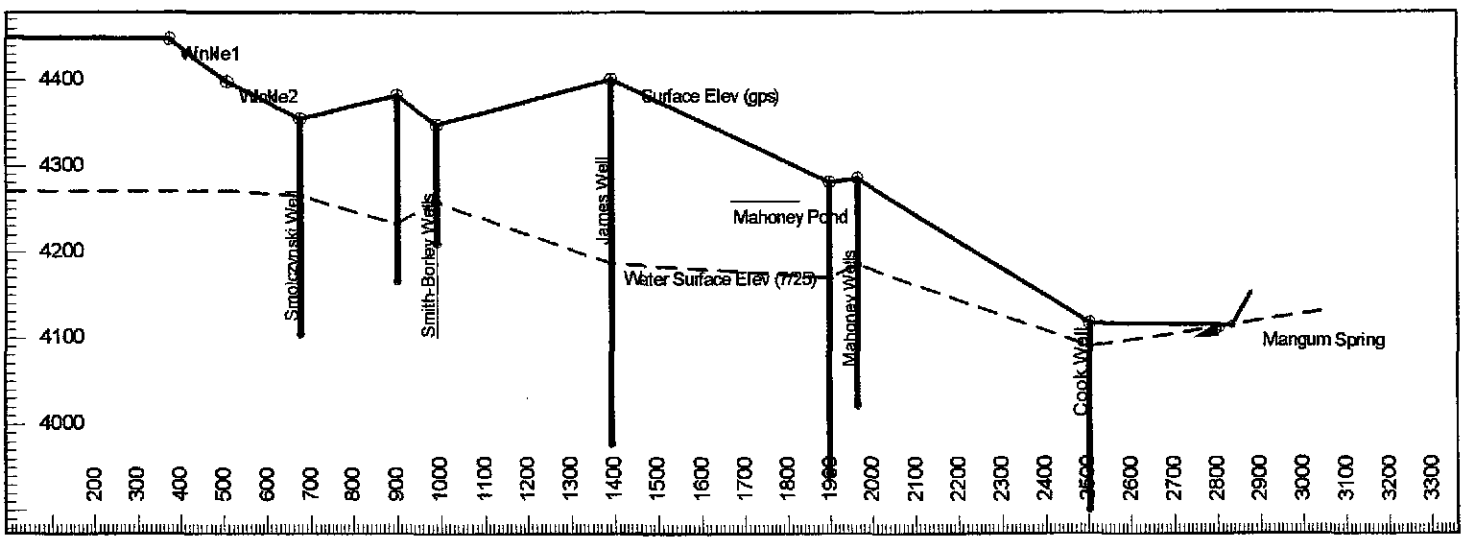
Date _____

Last Name _____ Ident. Number _____

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NOV 12 2002



The above figure is a layout of the area in question of the Mahoney water right application:
All features shown are plotted using GPS latitude and longitude (converted to UTM).
Background Map is a bitmap image and is not 100% accurate to GPS based features.



The above figure is a profile representing feature surface topology vs. Static Water levels vs. Well Depths:
Static well measurements are from 7/25/01 pump test report
Well depths are from IDWR well reports.

NOV 1 2 2002

Exhibit # 2

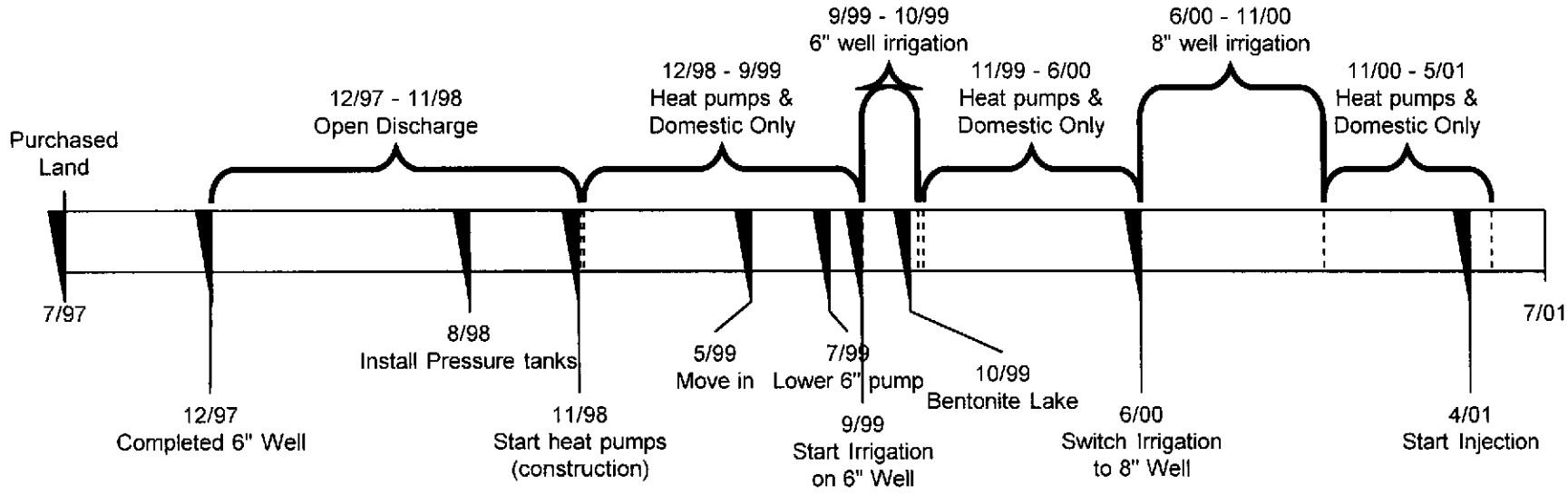

Purchased Land
12/97 - 11/98
Open Discharge
12/98 - 9/99
Heat pumps &
Domestic Only
9/99 - 10/99
6" well irrigation
11/99 - 6/00
Heat pumps &
Domestic Only
6/00 - 11/00
8" well irrigation
11/00 - 5/01
Heat pumps &
Domestic Only
7/97
12/97
Completed 6" Well
8/98
Install Pressure tanks
11/98
Start heat pumps
(construction)
5/99
Move in
7/99
Lower 6" pump
9/99
Start Irrigation
on 6" Well
10/99
Bentonite Lake
6/00
Switch Irrigation
to 8" Well
4/01
Start Injection
7/01

Exhibit #3

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

RECEIVED

AUG 31 2000

Givens Pursley, LLP

August 28, 2000

Jeff Fereday
Givens Pursley LLP
P.O. Box 2720
Boise, ID 83701

Subject: Investigation of Groundwater Conditions and Well Interference for Ed Mahoney

Dear Jeff:

This letter presents the results of my groundwater investigation conducted for Ed Mahoney at his property near Clear Creek. The investigation was conducted to determine if groundwater pumping by Mahoney is adversely impacting a well owned by Rob and Pam Smolczynski. The investigation found no indication of interference between the Mahoney and Smolczynski wells. Pumping by Mahoney has caused water-level drawdown beneath his property, but there is no evidence to suggest that his pumping has impacted other wells. Details of the investigation follow.

Scope of Work

The investigation has included the following work items.

1. Review of local geologic information.
2. Review of local well logs.
3. Measurement of static water levels in local wells.
4. Pumping test of Smolczynski well. — ?

Location

The Mahoney property is located in the Timber Mountain Ranch subdivision, approximately 1.5 miles south of the Clear Creek Store, within the South Fork of Clear Creek drainage. The property consists of approximately 38 acres, and includes a main house and a guesthouse, both with water-to-air heat pumps. Figure 1 shows the approximate location of the Mahoney home and also the location of some neighboring homes.

A natural pond of approximately 2 to 3 acres size is located adjacent to the home. The pond apparently is a shallow, undrained depression that in the past fluctuated in size and depth seasonally. Pond level is currently maintained in a full condition by adding groundwater from wells.

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600 East River Park Lane, Suite 10[redacted] Telephone (208) 383-4140
Boise, Idaho 83706 — Facsimile (208) 383-4156

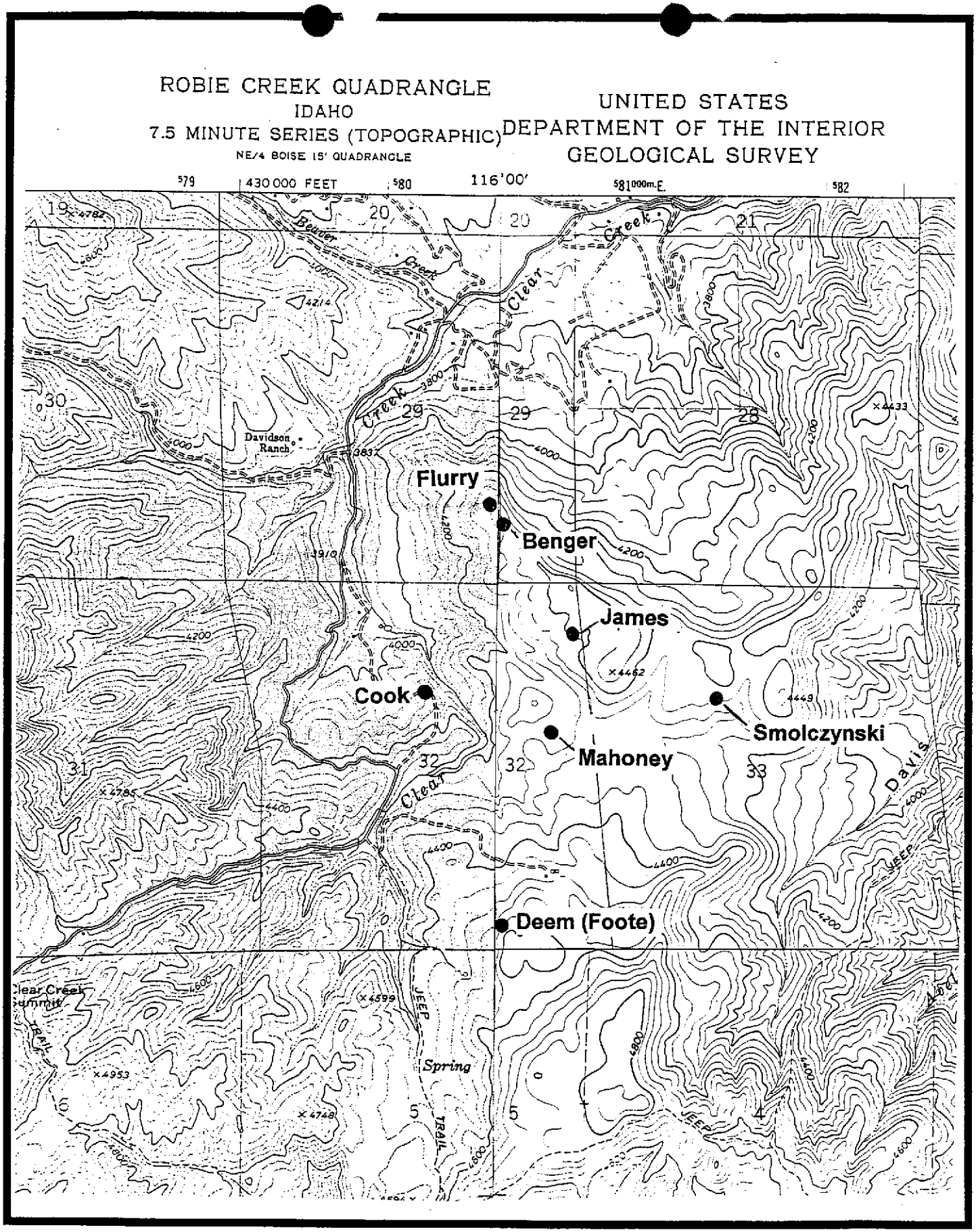


FIGURE 1 - WELL LOCATION MAP

MAR 12 2002

Existing Mahoney Water Use

Two wells are utilized on the property. A 6-inch well at the house is used for domestic purposes. This well also supplies heat pumps for both houses. The heat pump water is currently discharged to the pond. An 8-inch well is used for landscape irrigation and pond level maintenance. Logs for these wells are provided in Appendix A.

Calculations supplied by Mahoney indicate that heat pump water usage from the 6-inch well is approximately 10 acre feet annually. This water is allowed to flow into the pond, where it helps maintain the pond level. Additional pond-level maintenance water, totaling an estimated 9 acre feet annually, is added from the 8-inch well. The 8-inch well also supplies water for an estimated 1.5 acres of landscape irrigation. Landscape irrigation water use is estimated at 6 acre feet annually. In-home domestic water use probably amounts to one acre foot or less annually. Thus, groundwater production is estimated at approximately 26 acre feet annually.

Of the estimated 26 acre feet annually produced, only a portion is consumptively used. Consumptive use results from evapotranspiration from landscape irrigation and from evaporation from the pond surface. Evapotranspiration in the Timber Mountain Ranch area is probably less than 3 feet annually. Lake surface evaporation is also 3 feet or less annually. Assuming 1.5 acres of landscape irrigation and 2 acres of pond surface, total consumptive use of groundwater is approximately 10 acre feet annually. Unconsumed water returns to the groundwater system through lake bed seepage, infiltration of excess irrigation, or infiltration from the septic tank drain field.

Local Geology

Local geology is described in "Geology of the Boise Basin Vicinity, Boise, Ada, and Elmore Counties, Idaho (1997, Kiilsgaard, T.H., T.M. Scanlan, and D.E. Stewart, Idaho Geological Survey Map No. 7) and in "Geology and Landslide Hazards of the Dunnigan Creek 7.5-Minute Quadrangle, Boise County, Idaho" (Scanlan, T.M., 1986, unpublished University of Idaho M.S. Thesis). The Clear Creek drainage is underlain primarily by Cretaceous-age granodiorite of the Idaho Batholith with interspersed with dikes of younger intrusive rock (quartz monzodiorite, leucocratic granite, rhyolite, basalt, etc.). In the vicinity of the Timber Mountain Ranch subdivision, the batholith rock is overlain in many areas by interbedded Miocene-age lake-bed sediments of the Payette Formation and basalt of the Columbia River Group. Well log descriptions are not clear, but suggest that the sediments and basalt may extend to depths of more than 100 feet. (In some cases, materials described on the well logs as "decomposed granite" is probably angular sand sediment of the Payette Formation). Whether Payette Formation or decomposed granite, the logs suggest relatively low permeability because most of the wells can be drilled "open hole" without driving casing, and specific capacities are typically less than 0.5 gpm/ft.

Bedrock within the Clear Creek area is highly fractured in many places by northeast-trending, high-angle faults of the Trans-Challis Fault System. This fault system is several miles wide in the vicinity of the project area, and includes numerous mapped and unmapped parallel faults. The

NOV 1 2 2002

Trans-Challis Fault System extends across the State, from the Boise Ridge in the southwest to the Montana border in the northeast.

Groundwater Occurrence

Groundwater occurrence in the Clear Creek area is strongly influenced by topography and the low permeability of the Idaho Batholith rock and low to moderate permeability of the Payette Formation. Groundwater flow direction generally mirrors the overlying topography, with flow direction more or less toward the nearest surface water drainage. Groundwater flow may also be effected by faults, which can function as either barriers or preferential flow paths depending on the nature of the fractures and the fracture filling material.

Low-permeability aquifers in upland locations often have strong downward vertical gradients. As a result, a deep borehole will often intersect several water-bearing zones with different static water levels. Thus, when a deep well is completed in an area with downward vertical gradients, the upper water-bearing zones (with higher static water levels) may drain through the borehole into deeper water-bearing zones (with lower static water levels).

Yields from wells completed in low-permeability aquifers are typically low, and production from such wells is often self-limiting due to excessive drawdown during sustained pumping. Upland well sites also may see significant annual water level fluctuations due to seasonal effects of snowmelt recharge and summertime pumping.

Water Level Measurements

I measured water levels in seven local wells (including the two Mahoney wells) on August 12, 2000. Ed Mahoney measured water levels in his two wells on August 18, 19 and 20. Results of the August 12 water level measurements, along with well characteristics gathered from the driller's reports, are provided in Table 1. Driller's reports are provided as Attachment 1. Mahoney's measurements are provided as Attachment 2.

Table 1 also includes estimated water-level elevations, based on estimates of surface elevations at the well sites. These estimates are probably accurate to within plus or minus 50 feet. Note that most of the wells have similar estimated water level elevations (4150 +/- 40 feet), except for Deem and Smolczynski, which are significantly higher.

Individually, several wells showed significant changes from the water levels reported on the well logs, while others show little difference. On average, the water level measurements suggest a slight decline in static water levels in the area when compared to water levels listed on the well logs. Such a decline would be expected in wells that have been in use during the summer. Additional interpretation of the measured water levels is provided below.

Smolczynski Well. The measured static depth to water in the Smolczynski well was more than 60 feet higher than reported on the well log. The deep static water level listed on the well log may have been the result of drawdown following drilling and air-lift pumping. As a result, the water level reported by the driller might not have been a true static levelat the time of measurement.

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NOV 1 2 2002

TABLE 1
WELL DATA AND WATER LEVELS

		Well Log Data											
Well Owner	Listed Location	Total Depth (feet)	Casing Depth (feet)	Liner Depth (feet)	Static Water Level (feet bgs)	Yield (gpm)	Pumping Water Level (feet bgs)	Drawdown (feet)	Specific Capacity (gpm/ft)	08/12/2000 Static (feet btoc)	Difference from log (feet)	Estimated Ground Elevation	Estimated Static Water Level Elevation (8/12/00)
Smolczynski	Lot 3, Ph6	250	20	0	122	8	230	108	0.07	58.74	63	4350	4291
Mahoney	53 Settlers Rd	338	118	338	115	60	280	165	0.36	160.18	-45	4275	4115
Mahoney	Lot 3, Blk 4	263	165	263	25	35	140	115	0.30	113.5	-89	4275	4162
Cook	Lot 4, Blk 4	216	88	216	32	8	120	88	0.09	26.85	5	4150	4123
Deem (Foote)	Timber Mt	200	18	180	103					>100*		4520	4400+/-
Benger	SESE Sec 29	323	18	310	160	15	300	140	0.11	175.73	-16	4360	4184
Flurry	SESE Sec 29	264	264	264	60	20	244	184	0.11	140.8	-81	4320	4179
James	NENE Sec 29?	423	280	377	216	24	300	84	0.29	211.87	4	4400	4188
Average										126.8	-22.5		

bgs - below ground surface

btoc - below top of casing

*unable to drop probe below 100 feet

Note that the estimated water level elevation in the well is higher than the ground surface at the Mahoney well sites, and more than 100 feet higher than the water levels at the Mahoney wells. Therefore, the Smolczynski well is hydraulically up-gradient from Mahoney.

The Smolczynski well has a relatively low yield. I tested it on August 12 and found that it produced 7.5 gpm with approximately 46 feet of drawdown.

The Smolczynski well site is in the Davis Gulch surface water drainage. Therefore, the well might be on the other side of a groundwater flow divide between Davis Gulch and the South Fork of Clear Creek.

Given the high static water level, the recent production problems in the Smolczynski well appear to be unrelated to pumping by Mahoney. Pam Smolczynski noted that the problems (sand and lack of pressure) occurred after she had inadvertently left the hose running for an extended period of time while irrigating trees. The problem resolved itself after a short period of time. The presence of sand may suggest that the well experienced a cave-in or sand heaving caused by excessive drawdown. Water system pressure and flow were likely restored after the sand was flushed from the pump and piping.

Mahoney 6-inch Well. The measured static depths to water in the Mahoney 6-inch well are more than 80 feet lower than listed on the driller's report. Such a deep static suggests that a shallow water-bearing zone (with a high static water level) has been de-watered through leakage down the borehole or by pumping. The present static water level elevation appears to be more typical of surrounding static water levels.

Mahoney 8-inch Well. Water level in the Mahoney 8-inch well was 45 feet lower than reported on the log when I measured it on August 12. However, the water level had not recovered from recent pumping. When water levels were allowed to recover overnight on August 19, the level was only about 15 feet lower than reported on the log. This suggests only minor aquifer drawdown in the vicinity of this well. This amount of drawdown is not significant in the vicinity of an operating well during mid summer.

Flurry Well. The measured static depth to water in the Flurry well is approximately 80 feet lower than listed on the driller's report. The deep static water level suggests that a shallow water-bearing zone (with a high static water level) has been de-watered through leakage down the borehole or by pumping. The present static water level elevation appears to be more typical of surrounding static water levels, including the adjacent Benger well. Note that recent pumping may have also contributed to the low static measured on August 12.

Benger Well. The water level measured in Benger well was 15 feet lower than reported by the well driller. As with the Mahoney 8-inch well, a minor water level decline should be expected in an operating well during mid summer.

Cook Well. Water level in the Cook well was 5 feet higher than reported on the driller's report. The Cook well is not currently in use and, therefore, should be representative of true static water level. The measured water level suggests no detectable impact from Mahoney pumping.

M.C.R.C.
SEP 12 2000

James Well. Water level in the James well was 4 feet higher than reported on the driller's report. The James well is not currently in use. As with the Cook well, the water level at the James well suggests no detectable impact from Mahoney pumping.

Effect of Mahoney Pumping on Local Wells

Water levels in the Cook well and James well show no decline, suggesting no well interference impact from current pumping by Mahoney. Although pumping of the Mahoney wells potentially could impact water levels in neighboring wells, such impact is unlikely to develop because the relatively low permeability of the local aquifer materials generally will not allow the impacts of pumping to extend far from the pumping source. Instead, excessive drawdown in the Mahoney wells would probably develop if the Mahoney's pumping exceeds the capacity of the aquifer. Under such a scenario, Mahoney would experience reduced discharge rates due to higher pumping lifts and reduced well productivity.

Pumping in excess of thegroundwater recharge rate could cause long-term water-level declines. However, recharge from precipitation and snowmelt in the Timber Mountain vicinity is probably adequate to offset Mahoney's consumptive groundwater use. Long-term water level monitoring is recommended to verify that water-level declines are not occurring.

Anticipated Effect of Mahoney Pumping on Flows in Clear Creek and the Boise River

Groundwater within the Clear Creek drainage basin is tributary to Clear Creek and ultimately, (via Grimes Creek and Mores Creek) the Boise River. However, consumptive water use from wells at the Mahoney property site is anticipated to have little immediate effect on the flow in Clear Creek or the Boise River for the following reasons.

1. The aquifer zones tapped by the wells are unlikely to have direct hydraulic connection to Clear Creek. As such, pumping of the wells should not directly induce losses from Clear Creek.

2. Some eventual reduction in stream gains could occur due to groundwater pumping, but these reductions will likely take months or years to develop as water levels in the aquifer decline. The amount of reduced stream gains will be a portion of the consumed groundwater. The remainder of the consumed groundwater will be derived from reduced aquifer storage. Eventually, a steady-state condition will develop where the annual stream gain by Clear Creek is reduced by an amount equal to the average annual consumptive use of the wells.

Conclusions

1. There is no evidence to suggest that pumping by Mahoney has impacted yields or water levels in neighboring wells.

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2. Pumping by Mahoney has likely caused water level drawdown in the near vicinity of the Mahoney wells. Much of this drawdown may recover over the winter and spring when irrigation and pond level demands are less.

Recommendations

1. Mahoney should discharge heat pump water into the 8-inch well to reduce groundwater waste during the winter months.

2. Mahoney should apply for a water right permit for landscape irrigation and pond level maintenance. Approximately 3 acres of existing irrigation water right should be retired to mitigate consumptive use for landscape irrigation and pond level maintenance.

3. Mahoney should monitor his well water levels in the future to verify that significant water level declines are not occurring.

Please contact me with any questions or comments concerning this investigation.

Sincerely,

Terry M. Scanlan, P.E., P.G.
Engineer/Hydrogeologist

Cc: Ed Mahoney

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NOV 1 2 2002

ATTACHMENT 1
WELL LOGS

Form 238-7
11/97

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

1. WELL TAG NO. D 0007745
DRILLING PERMIT NO. 63-98-W-0238-000
Other IDWR No. _____

2. OWNER:
Name ROBERT AND PAMELLA SMOLCZYNSKI
Address 75 SETTLERS ROAD
City BOISE State ID Zip 83716

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5 North XX or South ☐
Rge. 4 East XX or West ☐
Sec. 33 ____ 1/4 NW 1/4 SE 1/4
Gov't Lot ____ County BOISE
Lat: : : Long: : :
Address of Well Site SAME AS ABOVE
City BOISE
(Give at least name of road + Distance to Road or Landmark)

Lt. 3 Blk. _____ Sub. Name TIMBER MOUNTAIN RANCH SUBDIVISION PHASE 6

4. USE:
XX Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
XX New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
XX Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK			AMOUNT	METHOD
Material	From	To	Sacks or Pounds	
BENTONITE	0'	20'	550 LBS	DRY POUR

Was drive shoe used? XX Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? XX Y ☐ N How? NO BLOW BY

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+2'	20'	.250	STEEL	XX	☐	XX	☐
					☐	☐	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
Perforations Method _____
Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
						☐	☐
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
122 ft. below ground Artesian pressure _____ lb.
Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer XX Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
8 G. P. M.	N/A	230'	FIVE HOURS

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
12"	0'	18'	BASALT BOULDERS WITH GRANITE		
			BOULDERS AND RED CLAY		XX
12"	18'	20'	GRANITE		XX
6"	20'	36'	GRANITE		XX
6"	36'	54'	GRANITE WITH CLAY		XX
6"	54'	250'	DECOMPOSED GRANITE	XXX	

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OCT 28 1998
Department of Water Resources
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OCT 27 1998
WATER RESOURCES
WESTERN REGION

Completed Depth 250' (Measurable)
Date: Started 10/12/98 Completed 10/16/98

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name BILL DOTY DRILLING CO., INC. Firm No. 42
Firm Official _____ Date 10-26-98
and
Driller or Operator _____ Date _____
(Sign once if Firm Official is Operator)

FORWARD WHITE COPY TO WATER RESOURCES

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NOV 12 2002

Form 238-7
3/95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp _____ Rge _____ Sec _____
_____ 1/4 _____ 1/4 _____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. __-__-__-____-____
Other IDWR No. D0012412

2. OWNER:
Name Ed Mahoney
Address 530 Settlers Rd
City Boise State ID Zip 83716

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site 53 Settlers Rd
City Boise
(Give at least name of road + Distance to Road or Landmark)
Lt. _____ Blk. _____ Sub. Name _____

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK			AMOUNT	METHOD
Material	From	To	Sacks or Pounds	
bentonite	2'	18+'	7	overbore

Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
8"	+2'	118'	.250	Steel	☒	☐	☒	☐
6"	106'	338'	.250	Steel	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method torch
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
230'	270'		200	6"	Steel	☐	☒
290'	338'		200	6"	Steel	☐	☒
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
115ft. below ground NOV 12 2099 Artesian Pressure _____ lb
Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
60 GPM		280'	1 hr
40 GPM		220'	

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 56'

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia	From	To	Remarks: Lithology, Water Quality & Temp.	Water Y	Water N
10"	0'	4'	brown top soil		☒
10"	4'	6'	brown decomposed granite		☒
10"	6'	13'	brown clay		☒
10"	13'	18'	brown clay & gravel		☒
10"	18'	23'	brown gravel		☒
10"	23'	25'	boulders		☒
10"	25'	43'	brown clay & decomposed granite		☒
10"	43'	45'	brown rock		☒
10"	45'	56'	black rock		☒
10"	56'	67'	brown decomposed granite	☒	
10"	67'	74'	black rock		☒
8"	74'	85'	broken black rock	☒	
8"	85'	95'	brown clay		☒
8"	95'	127'	white clay & decomposed granite		☒
8"	127'	130'	white decomposed granite	☒	
8"	130'	146'	white clay & decomposed granite		☒
8"	146'	162'	white decomposed granite	☒	
8"	162'	191'	white clay & decomposed granite		☒
8"	191'	205'	white & brown decomposed granite	☒	
8"	205'	215'	blue clay		☒
8"	215'	255'	green & white granite		☒
8"	255'	260'	white decomposed granite	☒	
8"	260'	290'	white & brown granite		☒
8"	290'	325'	white decomposed granite	☒	
8"	325'	338'	brown & white granite		☒

Completed Depth: 340 (Measurable)
Date: Started 10-20-99 Completed 10-23-99

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official Tony Hackett Date 11/8/99
Supervisor or Operator Dave Kuzia Date 11/8/99
(Sign once if Firm Official & Operator)

Date: 10/29/99 Time: 12:50 PM

C

Form 238-7
3-95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. ic3 97 W 0675 000
Other IDWR No. D0001385

2. OWNER:
Name Ed Mahoney
Address 1800 Bryson
City Boise State ID Zip 83713

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 (10 acres) SW 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot _____ County Boise
Lat: : : Long: : :
Address of Well Site _____
City ID City
(Give at least name of road -- Distance to Road or Landmark)
Lt. 3 Blk. 4 Sub. Name Timber Mnt. Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	2	21	7	overbore

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+1	165	250	steel	☒	☐	☒	☐
4.5"	163	263	S 40	PVC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
165	262		500	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
25ft. below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
35		140	3 hrs

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 121

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia	From	To	Remarks:Lithology, Water Quality & Temp.	Water Y	Water N
10"	0	1	brown top soil		☒
10"	1	16	hard brown clay		☒
10"	16	21	hard green clay		☒
6"	21	65	hard brown clay		☒
6"	65	75	brown decomposed granite		☒
6"	75	108	brown clay		☒
6"	108	110	green granite boulder		☒
6"	110	121	brown clay		☒
6"	121	137	white quartz sand	☒	
6"	137	195	white clay w/strips of white		
			decomposed granite	☒	
6"	195	210	white decomposed granite		☒
6"	210	222	white decomposed granite	☒	
6"	222	225	brown clay		☒
6"	225	250	green & white granite	☒	
6"	250	255	brown & white granite	☒	
6"	255	263	brown granite		☒
			depth open to 256'		
			liner to 263'		

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NOV 0 5 1997
Department of Water Resources

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NOV - 3 1997
WATER RESOURCES
WESTERN REGION

Completed Depth: 256 (Measurable)
Date: Started 10/02/97 Completed 10/06/97

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co. Firm No. 212
Firm Official Tony Hazlett Date 10/21/97
Supervisor or Operator Tony Hazlett Date 10-20-97
(Sign once if Firm Official & Operator)

Date: 10 10 97 Time:10:34 AM

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NOV 12 2002

Form 238-7
1/94

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Use Typewriter or Ball Point Pen

1. DRILLING PERMIT NO. 63-94-W-0310-000
Other IDWR No.

2. OWNER:
Name EDWARD COOK
Address 3501 S LINDSAY ST
City Boise State ID Zip 83705

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 SW 1/4 NE 1/4 1/4
Gov't Lot ___ County Boise

Address of Well Site OFF CLEAR CK. RD
(Give at least name of road + Distance to Road or Landmark) City ID. CITY

Lt. 4 Blk. 4 Sub. Name TIMBER MOUNTAIN RANCH

4. PROPOSED USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other

5. TYPE OF WORK
☒ New Well ☐ Modify or Repair ☐ Replacement ☐ Abandonment

6. DRILL METHOD
☐ Mud Rotary ☐ Air Rotary ☒ Cable ☐ Other

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
Bentonite	0	18	3 SACKS	SLURRY

Was drive shoe used? Y ☒ N ☐
Was drive shoe seal tested? Y ☐ N ☒ How?

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	88'	+2	.036	Steel	☒	☐	☒	☐
4½	216'	40'	480	Plastic	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe ___ Length of Tailpipe ___

9. PERFORATIONS/SCREENS
☒ Perforations Method SAW SAW
☐ Screens Screen Type

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
215	40	⅛	320	4½	Plastic	☐	☒
82	42	⅛	52	6"	Steel	☒	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
32' ft. below ground Artesian pressure ___ lb.
Depth flow encountered ___ ft. Describe access port or control devices: 1" well cap

11. WELL TESTS:
☒ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
8	120'	120	9 HRS

Water Temp. 51 Bottom hole temp.
Water Quality test or comments: Good

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
8	0	20	Top Soil		X
6"	20	22	Clay		
	22	26	Granite Rock		
	26	40	Dark clay		
	40	52	Granite		
	52	65	Red clay		
	65	74	Decomposed Granite	X	
	74	88	Red clay		
	88	100	Brown clay		
	100	106	coarse sand	X	
	106	112	Grey clay		
	112	140	Decomposed Granite	X	
	140	172	Brown + Grey clay		
	172	179	Decomposed Granite	X	
	179	188	Coarse sand	X	
	188	192	Grey clay		
	192	198	Sand + Granite Rock	X	
	198	204	Blue Grey clay		
	204	209	coarse sand	X	
	209	212	Sandy clay		
	212	216	Granite Rock + Pea Gravel	X	

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SEP 20 1994
Department of Water Resources
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JUL 21 1994
WATER RESOURCES
WESTERN REGION

Completed Depth 216' (Measurable)
Date: Started 6-16-94 Completed 6-28-94

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Layne Western Well Drilling Firm No. 492
Firm Official Tony Meacham Date
and
Supervisor or Operator Don Towns Date 7-16-94
(Sign once if Firm Official & Operator)

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MICRO
NOV 12 2002

#1

"cted Well Report"

Form 238-7
4/92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
FEB 0 2 1994
Department of Water Resources

USE TYPEWRITER OR BALLPOINT PEN

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

1. WELL OWNER
Name Jim Dean
Address PO Box 15702 Boise
Drilling Permit No. 63-92-C-110-000
Water Right Permit No.

2. NATURE OF WORK
☑ New well ☐ Deepened ☐ Replacement
☐ Well diameter increase ☐ Modification
☐ Abandoned (describe abandonment or modification procedures such as liners, screen, materials, plug depths, etc. in lithologic log, section 9.)

3. PROPOSED USE
☑ Domestic ☐ Irrigation ☐ Monitor
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection
☐ Other _____ (specify type)

4. METHOD DRILLED
☑ Rotary ☑ Air ☐ Auger ☐ Reverse rotary
☐ Cable ☐ Mud ☐ Other _____ (backhoe, hydraulic, etc.)

5. WELL CONSTRUCTION
Casing schedule: ☑ Steel ☐ Concrete ☑ Other PVC

	Thickness	Diameter	From	To
steel	1/4 inches	8 inches	+ 2 feet	18 feet
PVC	1/4 inches	9 1/2 inches	+ 2 feet	130 feet
	inches	inches	feet	feet

Was casing drive shoe used? ☐ Yes ☑ No
Was a packer or seal used? ☑ Yes ☐ No Bentonite
Perforated? ☐ Yes ☑ No
How perforated? ☐ Factory ☐ Knife ☐ Torch ☐ Gun
Size of perforation? _____ inches by _____ inches

	Number	From	To
	perforations	feet	feet
	perforations	feet	feet
	perforations	feet	feet

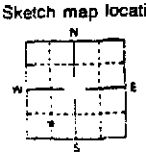
Well screen installed? ☑ Yes ☐ No
Manufacturer Unknown Type PVC machine slotted
Top Packer or Headpipe +2' above ground surface
Bottom of Tailpipe 130'

Diameter 4 1/2 Slot size 18" Set from 130 feet to 150 feet
Diameter ____ Slot size ____ Set from ____ feet to ____ feet
Gravel packed? ☑ Yes ☐ No ☐ Size of gravel 5/16"
Placed from 125 feet to 110 feet

Surface seal depth 125' Material used in seal: ☐ Cement grout
☑ Bentonite ☐ Puddling clay ☐ _____
Sealing procedure used: ☐ Slurry pit
☑ Temp. surface casing ☑ Overbore to seal depth 4 1/2 inch @ 77'
Method of joining casing: ☐ Threaded ☐ Welded
☑ Solvent Weld PVC ☐ Cemented between strata

Describe access port Top

6. LOCATION OF WELL
Sketch map location must agree with written location.



Subdivision Name Linden Mist
Ranch
Lot No. _____ Block No. _____
County Boise
Address of Well Site _____ (give at least name of road)
T. 5N ☑ N ☐ S
Sec. 32 R. 4E ☐ E ☑ W

7. WATER LEVEL
Static water level 107 feet below land surface.
Flowing? ☐ Yes ☑ No G.P.M. flow _____
Artesian closed-in pressure _____ p.s.i.
Controlled by: ☐ Valve ☐ Cap ☐ Plug
Temperature _____ °F. Quality _____
Describe artesian or temperature zones below.

8. WELL TEST DATA N/A
☐ Pump ☐ Bailer ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped

9. LITHOLOGIC LOG

Bore Diam.	Depth From	Depth To	Material	Water Yes	Water No
14"	0	20'	Top soil, Brown Clay, Gravel		
10"	20	125'	clay, Rock, very moist	✓	
10"	125	200	Concrete-Soft, very Muddy	✓	

10.
Work started 7-13-92 finished 7-16-92

11. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.
Firm Name JC Exploration Firm No. 462
Address PO Box 56 Wendell Idaho 83355 Date 1/31/94
Signed by Drilling Supervisor _____
and
(Operator) Dean Williams
(if different than the Drilling Supervisor)

USE ADDITIONAL SHEETS IF NECESSARY — FORWARD THE WHITE COPY TO THE DEPARTMENT

NOV 1 2 2002

Form 238-7
3/95

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT
Use Typewriter or Ballpoint Pen

Office Use Only
Inspected by _____
Twp____ Rge____ Sec____
____1/4____1/4____1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. 63-76-4 0722-000
Other IDWR No. _____

2. OWNER:
Name Chris Bengel
Address 1808 Chisholm
City Nampa State ID Zip 83686

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 29, ____ 1/4 SE 1/4 SE 1/4 (10 acres / 40 acres / 160 acres)
Gov't Lot ____ County Boise County
Lat: : : Long: : :
Address of Well Site _____
City Boise
(Give at least name of road + Distance to Road or Landmark)
Lt. 4 Blk. C Sub. Name Timber Meadows Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
Bentonite	0	161	450	Pour

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) 18'
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6	+2	16'	250	Steel	☒	☐	☒	☐
4½	10	310	¼	PVC	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☐ Perforations Method _____
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
~~16~~	~~316~~					☐	☐
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
160 ft. below ground Artesian pressure _____ lb.
Depth flow encountered 306-320 ft. Describe access port or control devices: Cap

NOV 12 2002

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
10-15	300	300	2 hr

Water Temp. 55 Bottom hole temp. 55
Water Quality test or comments: _____
Depth first Water Encountered _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
10	0	2	F.ill, Top Soil		
	2	6	Top Soil		
	6	18	~~Decomp~~ Soft Granite		
6	18	80	Blue Granite		
	80	110	Red Granite		
	110	200	Blue Granite		
	200	300	Gray Granite 5 Gal	X	
	300	323	" " 10 Gal	X	

RECEIVED
OCT 11 1996
WATER RESOURCES
WESTERN REGION

Completed Depth 320 (Measurable)
Date: Started 9-24-96 Completed 9-24-96

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Hoagerse Well Drilling Firm No. 560
Firm Official _____ Date 10-1-96
and
Supervisor or Operator _____ Date 10-1-96
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

3/95

C

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT
Use Typewriter or Ballpoint Pen

Office Use Only
Inspected by _____
Twp____ Rge____ Sec____
____1/4 ____1/4 ____1/4
Lat: : : Long: : :

1. DRILLING PERMIT NO. - D0001286 -
Other IDWR No. 63-97-W-0629-000

2. OWNER:
Name Don Flurry
Address HC 33 Box 4031
City Boise State ID Zip 83706

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location.

N / W / E / S

Twp. 5N North ☐ or South ☐
Rge. 4E East ☐ or West ☐
Sec. 29, ____ 1/4 (10 acres) SE 1/4 (40 acres) SE 1/4 (160 acres)
Gov't Lot ____ County Boise
Lat: : : Long: : :
Address of Well Site _____
(Give at least name of road + Distance to Road or Landmark) City Boise
Lt. 4 Parcel Blk. 5 Sub. Name Timber Mountain Ranch

4. USE:
☑ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☑ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☑ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
Benonite	0	18	350	Pour

Was drive shoe used? ☐ Y ☑ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☑ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+2'	18'	250	Steel	☑	☐	☑	☐
4½"	5'	264		PVC casing	☐	☑	☑	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☐ Perforations Method _____
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
						☐	☐
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
60 ft. below ground Artesian pressure _____ lb.
Depth flow encountered 234 ft. Describe access port or control devices: Cap MICROFILMED

NOV 12 2002

11. WELL TESTS:
☐ Pump ☐ Bailer ☑ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
20	244	244	3 hr

Water Temp. 54° Bottom hole temp. 54°
Water Quality test or comments: _____
Depth first Water Encountered 90'

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
8⅝	0	1	Top soil		
	1	3	Clay		
	3	8	hard Pan		
	8	12	soft decomposed granite		
	12	18	decomposed granite		
6"	18	220	granite	/	
	220	264	cracked granite	/	

RECEIVED
OCT - 3 1997
WATER RESOURCES
WESTERN REGION

Completed Depth 264 (Measurable)
Date: Started 9-11-97 Completed 9-11-97

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Treasure Valley Drilling Firm No. 560
Firm Official _____ Date 9-25-97
and
Supervisor or Operator _____ Date _____
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

Form 238-7
3/95-C96

C

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT
Use Typewriter or Ballpoint Pen

Office Use Only
Inspected by
Twp Rge Sec
1/4 1/4 1/4
Lat: : : Long: : :

Date: 06/17/96 Time:1:39 PM

1. DRILLING PERMIT NO. 63 -96 -W -0387 -000
Other IDWR No.

2. OWNER:
Name John & Stella James
Address 2040 Airport Way #45
City Boise State ID Zip 83705

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 29 1/4 (10 acres) NE 1/4 (40 acres) NE 1/4 (160 acres)
Gov't lot County Boise
Lat: : : Long: : :
Address of Well Site Pioneer Drive
City Boise/Idaho City
(Give at least name of road + Distance to Road or Landmark)
Lt. 1 Blk. 5 Sub. Name Timber Mnt. Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	0	19	7	overbore

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s)
Was drive shoe seal tested? ☐ Y ☒ N How?

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+1	280	250	steel	☒	☐	☒	☐
4.5"	257	377	s 40	PVC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe Length of Tailpipe

9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
317	377		180	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
216ft. below ground Artesian Pressure lb
Depth flow encountered 0 Describe access port or control

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NOV 1 2 2002

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min.	Drawdown	Pumping Level	Time
24	no test	300'	

Water Temp. Bottom hole temp.
Water Quality test or comments:
Depth first Water Encountered

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Water Y	Water N
10"	0	5	brown clay		☒
10"	5	18	hard black granite		☒
6"	18	106	decomposed granite		☒
6"	106	139	soft tan clay		☒
6"	139	193	decomposed green granite		☒
6"	193	216	gray clay		☒
6"	216	224	gray green clay		☒
6"	224	234	green softish rock		☒
6"	234	305	green firm rock		☒
6"	305	379	green rock harder		☒
6"	379	381	course quartz sand 30+ gpm	☒	
6"	381	403	hard green rock		☒
6"	403	423	hard green rock		☒

RECEIVED
JUL 18 1996
WATER RESOURCES
WESTERN REGION

Completed Depth: 372' (Measurable)
Date: Started 06-07-96 Completed 06-14-96

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co Firm No. 212
Firm Official Date 6-20-96
Supervisor or Operator Frank Schmit Date 6-24-96
(Sign once if Firm Official & Operator)

Attachment 2 - Mahoney Well Measurements

Date	Time	State or Event	6" Well Depth to Water	8" Well Depth to Water
8/18/00 (Fri)	15:00	Auto Irrigation System On (8" Well); 6" Well heat pumps off but pump could run		
8/19/00 (Sat)	2:30	Auto Irrigation System Off		
	7:30	Depth Measurements; Power off 8" well	110' 0"	144' 0"
	18:30	Depth Measurements; Power off 6" Well (except to recharge pressure tanks once at 05:30 Sun)	109' 8"	135' 7"
8/20/00 (Sun)	8:00	Depth Measurements;	108' 10"	131' 3"
	10:30	Depth Measurements	108' 7"	130' 6"
	10:45	Power on to 6" Well; Start up both heat pumps; (15 gpm load); Pump cycles on for 45 seconds every 80 seconds		
	11:05	6" Well Pump kicks on, draws down to	119'	
		Pump kicks off, water rises to	113'	
	11:10	6" well (heat pumps) still running; now power up 8" well running open discharge at 40 gpm		130' 5"
	11:20	Depth measurements, 8" well only		154' 6"
	11:25	Depth measurements, 8" well only		164'
	11:40	Depth measurements, 8" well only		179'
	11:50	Depth measurements, 8" well only		185'
		Note: Started having problems with the probe running into some sort of obstruction in the 175' to 185' range?		
	12:05	Depth measurements, 8" well only (may be stable here?)		185'
	12:10	Depth measurements, 6" well only, pump still cycling; when on draws down to	121'	
		Pump kicks off, water rises to	115'	
		Note: I tried to run every faucet and hose I could find along with the heat pumps to reach a state where the 6" well pump would not turn off		
	12:25	Although it took longer before the pump kicked off;I was unable to reach a state where it would just run and draw down; got it down to	125'	
	12:30	Turned everything off on both wells, wanting to see how fast initial recharge is		
	12:45	Depth measurements; 6" well only	112' 5"	
	12:55	Depth measurements; 6" well only	111' 4"	
	13:05	Depth measurements; 8" well only		142' 7"

MICRO
NOV 1 2 2002

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

August 29, 2001

RECEIVED

Jeff Fereday
Givens Pursley LLP
P.O. Box 2720
Boise, ID 83701

Subject: Analysis of Mahoney Aquifer Test Results

Dear Jeff:

The Mahoney aquifer test was concluded on August 10, 2001. Test data are attached. Details are provided in the following paragraphs.

Test Procedure

The test procedure is outlined in my letter to you of July 11, 2000 (enclosed) and described below.

- Prior to July 10, Mahoney had been pumping at an estimated rate of 13,000 gpd.
- On July 10, Mahoney ceased pumping from his 8-inch well. Francis Mangum, Roger Braun, Ed Mahoney, and I measured the discharge from the Mangum spring with a 5-gallon bucket and a stopwatch. Ed Mahoney and I measured water levels in seven wells with electric-line well sounders.
- The test officially started on July 11. The Mahoney 8-inch well pump panel was locked out and the keys were provided to Roger Braun. Mahoney also ceased using his 6-inch well on that July 11 because he left on a weeklong vacation. Spring discharge and water levels in seven wells were measured by Steve Neubauer and witnessed by Braun and Scanlan.
- Water levels and spring discharge were measured every second day from July 11 through August 10 by Neubauer. Use of the Mahoney 6-inch well for in-home domestic use was resumed on July 18.
- The Mahoney 8-inch well pump panel was unlocked on the afternoon of July 25. The pump was restarted at 7 pm at an estimated pumping rate of 40 gpm (58,000 gpd). This rate is approximately three times the average pumping rate proposed by Mahoney's water right application. The well was pumped continuously (24-hours per day) at this rate until 4 pm on August 10.

OCT 12 2002

600 East River Park Lane, Suite 10[redacted]
Boise, Idaho 83706

Telephone (208) 383-4140
Facsimile (208) 383-4156

Exhibit 7

- The test was terminated on August 10. Mangum spring discharge was measured by Neubauer, and witnessed by Mangum, Braun, Mahoney, and Scanlan. The seven wells were measured by Neubauer and witnessed by Mahoney and Scanlan. Well monitoring equipment was removed from the wells.

- Combined production from the two Mahoney Wells since August 10 has been limited to an estimated 13,000 gallons per day or less.

Test Results

Mangum Spring. Flow from the Mangum Spring declined throughout the test period at an average rate of 0.06 gpm/day. Flow rate on July 11 was 4.4 gpm. Flow rate on August 10 was 2.6 gpm. The rate of decline did not appear to vary between the "pump off" period and the "pump on" period. Instead, the rate appeared to respond to precipitation events. Heavy thundershowers occurred following measurements on July 10 and July 29, apparently resulting in measurably higher spring flows on July 11 and July 31. This suggests that the discharge rate from the spring is influenced on a short-term basis by precipitation rather than by Mahoney pumping.

Mahoney Wells. As would be expected, water levels in both Mahoney wells responded during the aquifer test. Water level in the 8-inch well recovered 18 feet during the two-week pump off period. The 6-inch well recovered nearly nine feet in this same period. After the 8-inch well pump was restarted, the 6-inch well declined 12 feet during the 16-day pumping period.

Cook Well. No measurable response to Mahoney pumping was detected at the Cook Well. The Cook Well does not supply a home and was not recently pumped prior to the test period.

Mr. Cook pumped an estimated 4,000 gallons from the well on July 21 to fill buried water tanks and for spraying weeds. The response is clearly visible in the reading late in the day on July 21 and for the next several days as water levels recovered. The water level in the Cook Well also dropped on July 17 but there was no apparent reason for the fluctuation.

James Well. The James Well was not pumped before or during the test period. The James Well showed a clear response to stopping and starting the Mahoney 8-inch well pump. Water levels recovered approximately 7 inches during the 14-day "pump off" period and then declined approximately 13 inches during the 16-day "pump on" period. This response suggests good hydraulic connection between the Mahoney and James wells.

Note that although there is a measurable water level response at the James Well as a result of pumping by Mahoney, the magnitude of the response is not enough to impact production from the well. Currently, water levels in the well are slightly higher than shown on the June 1996 Well Drillers Report and approximately 4 feet lower than found by my measurement on August 12, 2000. This suggests that 1999-2001 pumping by Mahoney has not resulted in significant decline at the James well.

SEP 12 2002

Smolczynski Well. Water levels in the Smolczynski Well fluctuated throughout the test period as a result of Smolczynski pumping. Water levels were noticeably lower in the well on days of high water use. Due to these fluctuations, there was no discernable response to Mahoney pumping.

Smith-Borely Wells. Water levels in the two Smith-Borely wells each had similar responses. The two wells may have recovered slightly (i.e., less than 0.2 feet) during the "pump off" test period. During the "pump on" period, water levels fell approximately 0.5 feet. (Note that water levels in the upper well could not be measured on August 6 through 10 because the probe was stuck.)

As with the James Well, the response of the wells to Mahoney pumping suggests hydraulic connection between the wells, but no adverse impact. The water levels in the wells during the test period are nearly identical to the water levels reported in the Well Driller's Reports, suggesting no significant decline since the wells were drilled approximately one year ago.

Please contact me with any questions.

Sincerely,

Terry M. Scanlan

Terry M. Scanlan, P.E., P.G.





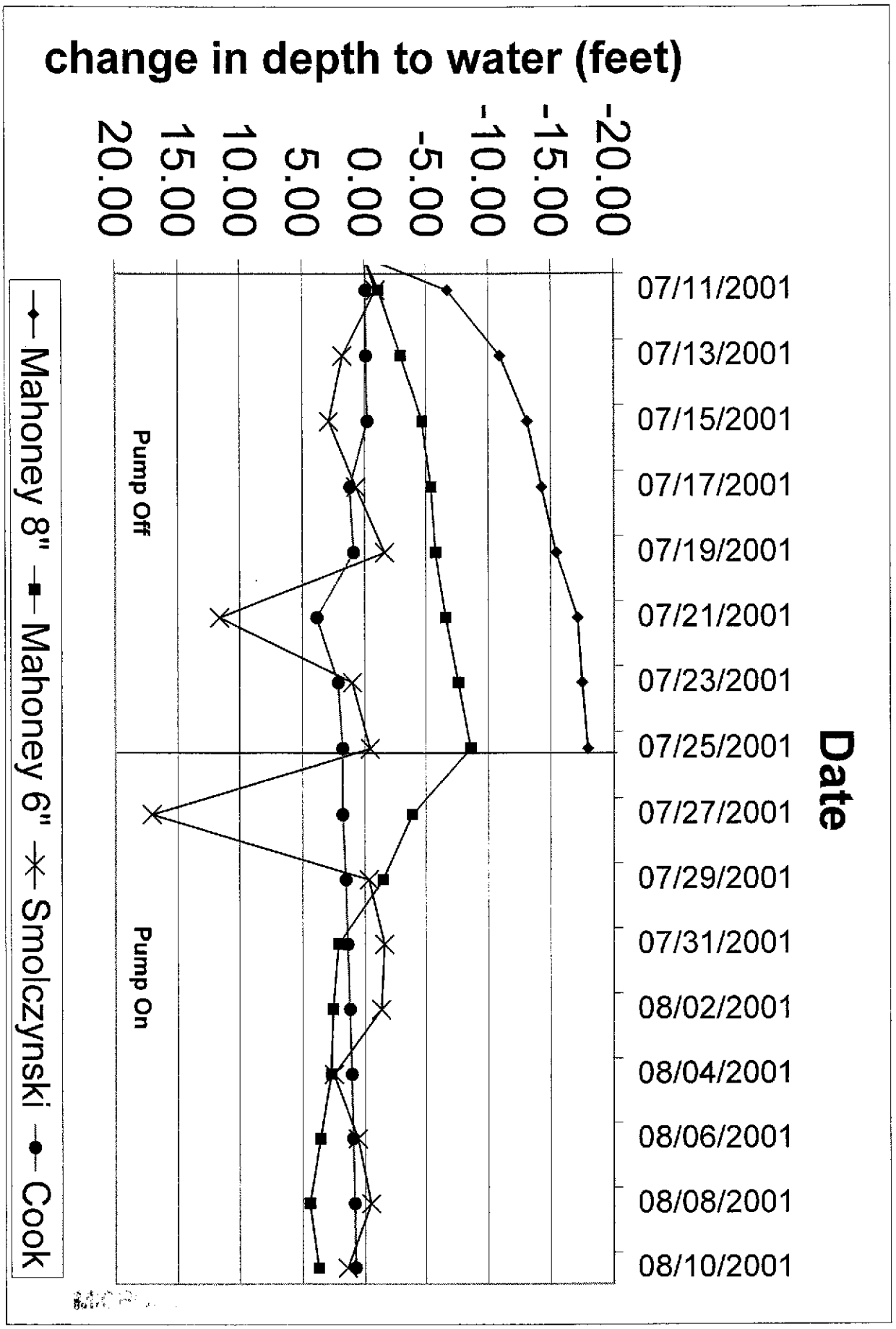
Cc: Ed Mahoney
Francis Mangum
Roger Braun
Steve Neubauer
Pam Smolczynski
Debra Borley
Ed Squires
Charles Honsinger

MICROFILMED
SEP 12 2003

Mahoney Aquifer Test Data

Date	Mahoney 8"	Mahoney 6"	James	Smolzynski	S-B Upper	S-B Lower	Cook	Spring (sec)	Spring (gpm)	Remarks
7/10/01	129.12	108.38	214.60	90.68	148.82	90.25	25.43	76	3.9	Power Off Mahoney 8" Well
7/11/01	122.40	107.25	214.70	89.79	148.88	90.35	25.35	69	4.3	Begin Test Period
7/13/01	118.23	105.47	214.55	92.48	148.80	90.27	25.34	77	3.9	0 gpm
7/15/01	116.04	103.72	214.39	93.57	148.72	90.07	25.22	85	3.5	0 gpm
7/17/01	114.87	102.96	214.38	91.38	148.73	90.08	26.64	83	3.6	0 gpm
7/19/01	113.70	102.61	214.33	89.09	148.81	90.18	26.33	81	3.7	<1 gpm avg
7/21/01	111.97	101.80	214.21	102.33	148.75	90.11	29.31	84	3.6	<1 gpm avg
7/23/01	111.62	100.78	214.12	91.70	148.79	90.14	27.60	88	3.4	<1 gpm avg
7/25/01	111.18	99.79	214.03	90.28	148.72	90.15	27.24	93	3.2	Turn on Mahoney 8" well
7/27/01	pumping	104.55	214.12	107.76	148.93	90.36	27.24	98	3.1	40 gpm +/-
7/29/01	pumping	106.93	214.25	90.37	148.90	90.38	26.99	97	3.1	40 gpm +/-
7/31/01	pumping	110.53	214.35	89.12	149.10	90.64	26.83	85	3.5	40 gpm +/-
8/2/01	pumping	110.98	214.54	89.39	149.19	90.54	26.67	95	3.2	40 gpm +/-
8/4/01	pumping	111.13	214.68	93.20	149.12	90.57	26.51	109	2.8	40 gpm +/-
8/6/01	pumping	111.97	214.91	91.27	stuck	90.71	26.41	108	2.8	40 gpm +/-
8/8/01	pumping	112.85	214.98	90.22	stuck	90.73	26.28	121	2.5	40 gpm +/-
8/10/01	146.39	112.13	215.10	92.10	stuck	90.67	26.20	116	2.6	Turn off Mahoney 8" well

Measurements on 7/10/01 by Scanlan
Measurements on 7/11-8/10 by Neubauer; measurements collected between 4 pm and 7 pm
Spring measurements are (1) seconds to fill 5 gallon bucket and (2) calculated gallons per minute
All other measurements are static water level below top of casing.
8-inch well turned off on July 10
8-inch well panel locked out on July 11 at 6 pm +/-
8-inch well panel unlocked and pump started July 25 at 7 pm
8-inch well turned off on August 10 at 4 pm


change in depth to water (feet)
20.00
15.00
10.00
5.00
0.00
-5.00
-10.00
-15.00
-20.00
Pump Off
Pump On
07/11/2001
07/13/2001
07/15/2001
07/17/2001
07/19/2001
07/21/2001
07/23/2001
07/25/2001
07/27/2001
07/29/2001
07/31/2001
08/02/2001
08/04/2001
08/06/2001
08/08/2001
08/10/2001
Date
Mahoney 8"
Mahoney 6"
Smolczynski
Cook

change in depth to water (ft)
-1.00
0.00
1.00
Date
07/11/2001
07/13/2001
07/15/2001
07/17/2001
07/19/2001
07/21/2001
07/23/2001
07/25/2001
07/27/2001
07/29/2001
07/31/2001
08/02/2001
08/04/2001
08/06/2001
08/08/2001
08/10/2001
Pump Off
Pump On
James
Smith Borely Upper
Smith Borely Lower

Mangum Spring Discharge
(gpm)
5.0
4.0
3.0
2.0
Pump Off
Pump On
07/11/2001
07/13/2001
07/15/2001
07/17/2001
07/19/2001
07/21/2001
07/23/2001
07/25/2001
07/27/2001
07/29/2001
07/31/2001
08/02/2001
08/04/2001
08/06/2001
08/08/2001
08/10/2001
Date

SCANLAN ENGINEERING

Groundwater and Environmental Engineering

July 11, 2001

Jeff Fereday
Givens Pursley LLP
P.O. Box 2720
Boise, ID 83701

Subject: Test Plan for Mahoney-Mangum Aquifer Testing.

Dear Jeff:

This letter provides an aquifer test plan associated with the protests of the Mahoney water right application. The test plan was developed following my discussion on site yesterday with Francis Mangum, Roger Braun, and Ed Mahoney.

The purpose of the test is to determine the impact of Mahoney's groundwater pumping on discharge from Mangum's spring and on local aquifer water levels. The proposed test will consist of discontinuing pumping of the Mahoney 8-inch well for a two-week period, while monitoring Mangum spring discharge and local groundwater levels. To prevent damage to Mahoney's landscape, Mahoney will pump water directly from the pond for irrigation during the test period.

The spring discharge rate can be measured with a 5-gallon bucket and stop watch. Well water levels can be measured with electric line well sounders. To minimize the potential that the electric lines will become stuck in the wells during installation and removal, the electric lines will be left in the wells between measurements. These electric lines were installed yesterday evening.

Following completion of the "well pump off" test, we will conduct a "well pump on" test. The pumping test will consist of turning the 8-inch well pump on and pumping to the pond at a constant rate for a two-week period. Spring discharge rate and well water levels will be measured during this test period at the same frequency as during the "well pump off" test.

The test procedure and monitoring schedule are listed below. Testing will begin immediately.

- July 10 Measure discharge from the Mangum spring and water levels at the following seven local wells (Mahoney 6", Mahoney 8", Cook, James, Smith-Borley upper, Smith-Borley lower, and Smolzynski)
- July 11 Discontinue use of the Mahoney 8-inch well. Measure discharge rate at Mangum spring and at the seven wells.
- July 13 Measure discharge rate at Mangum spring and water levels at the seven wells.
- July 15 Measure discharge rate at Mangum spring and water levels at the seven wells.

600 East River Park Lane, Suite 105
Boise, Idaho 83706

Telephone (208) 383-4140
Facsimile (208) 383-4156

- July 17 Measure discharge rate at Mangum spring and water levels at the seven wells.
- July 19 Measure discharge rate at Mangum spring and water levels at the seven wells.
- July 21 Measure discharge rate at Mangum spring and water levels at the seven wells.
- July 23 Measure discharge rate at Mangum spring and water levels at the seven wells.
- July 25 Measure discharge rate at Mangum spring and water levels at the seven wells. Restart Mahoney 8-inch well.
- July 27 Measure discharge rate at Mangum spring and water levels at the seven wells.
- July 29 Measure discharge rate at Mangum spring and water levels at the seven wells.
- July 31 Measure discharge rate at Mangum spring and water levels at the seven wells.
- August 2 Measure discharge rate at Mangum spring and water levels at the seven wells.
- August 4 Measure discharge rate at Mangum spring and water levels at the seven wells.
- August 6 Measure discharge rate at Mangum spring and water levels at the seven wells.
- August 8 Measure discharge rate at Mangum spring and water levels at the seven wells.
- August 10 Measure discharge rate at Mangum spring and water levels at the seven wells. End test

We have arranged to have Steve Neubauer collect the measurements. Steve is a semi-retired petroleum engineer that lives in my neighborhood. His phone number is 343-3255 and his e-mail address is srn@velocitus.net. We will plan to have Steve summarize his measurements on a weekly basis. Roger Braun and I will accompany Steve on at least the first and last measurement events for verification purposes. Measurements will take place in the late afternoon (4 pm +/-).

Please contact me with any questions.

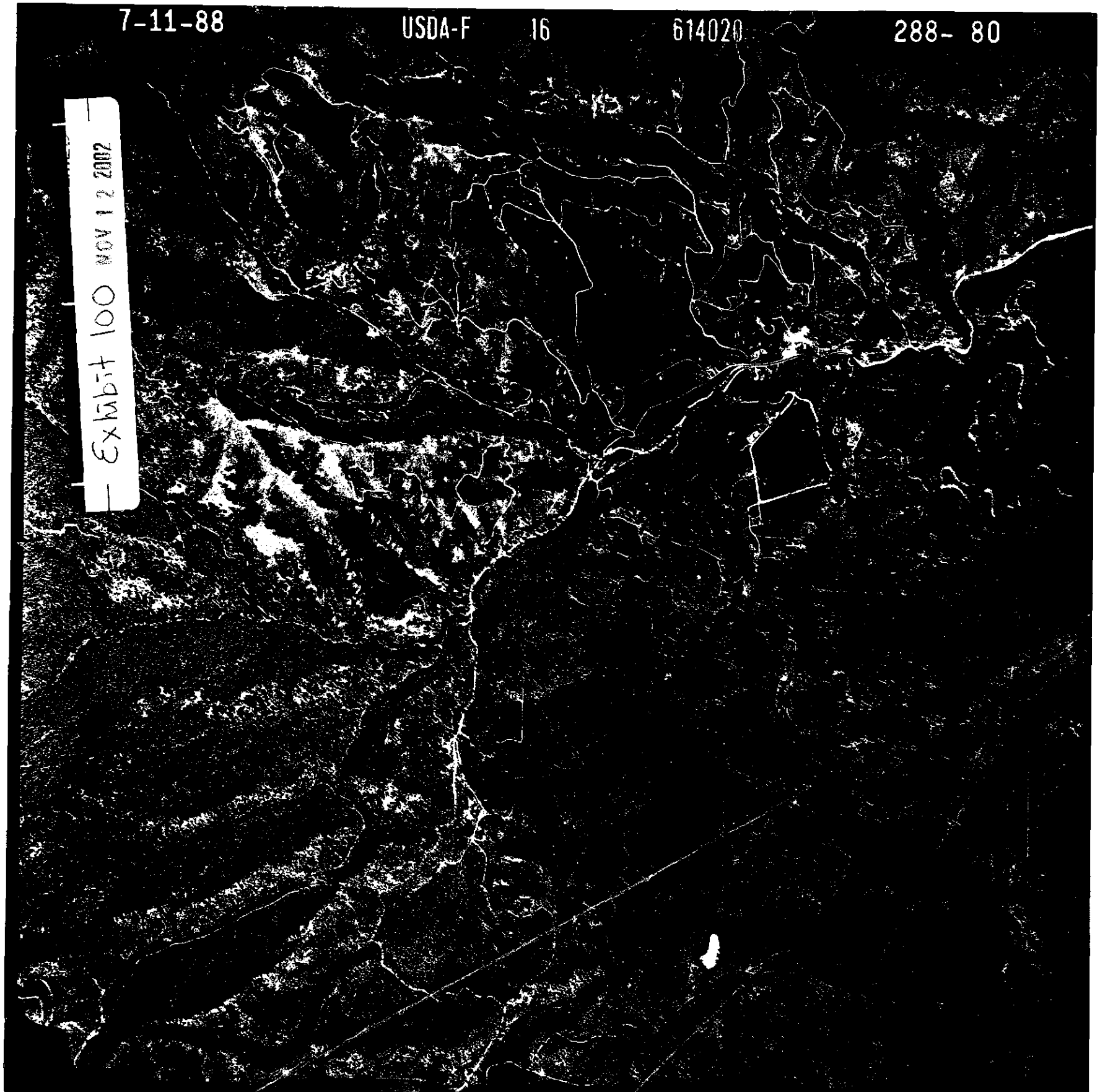
Sincerely,

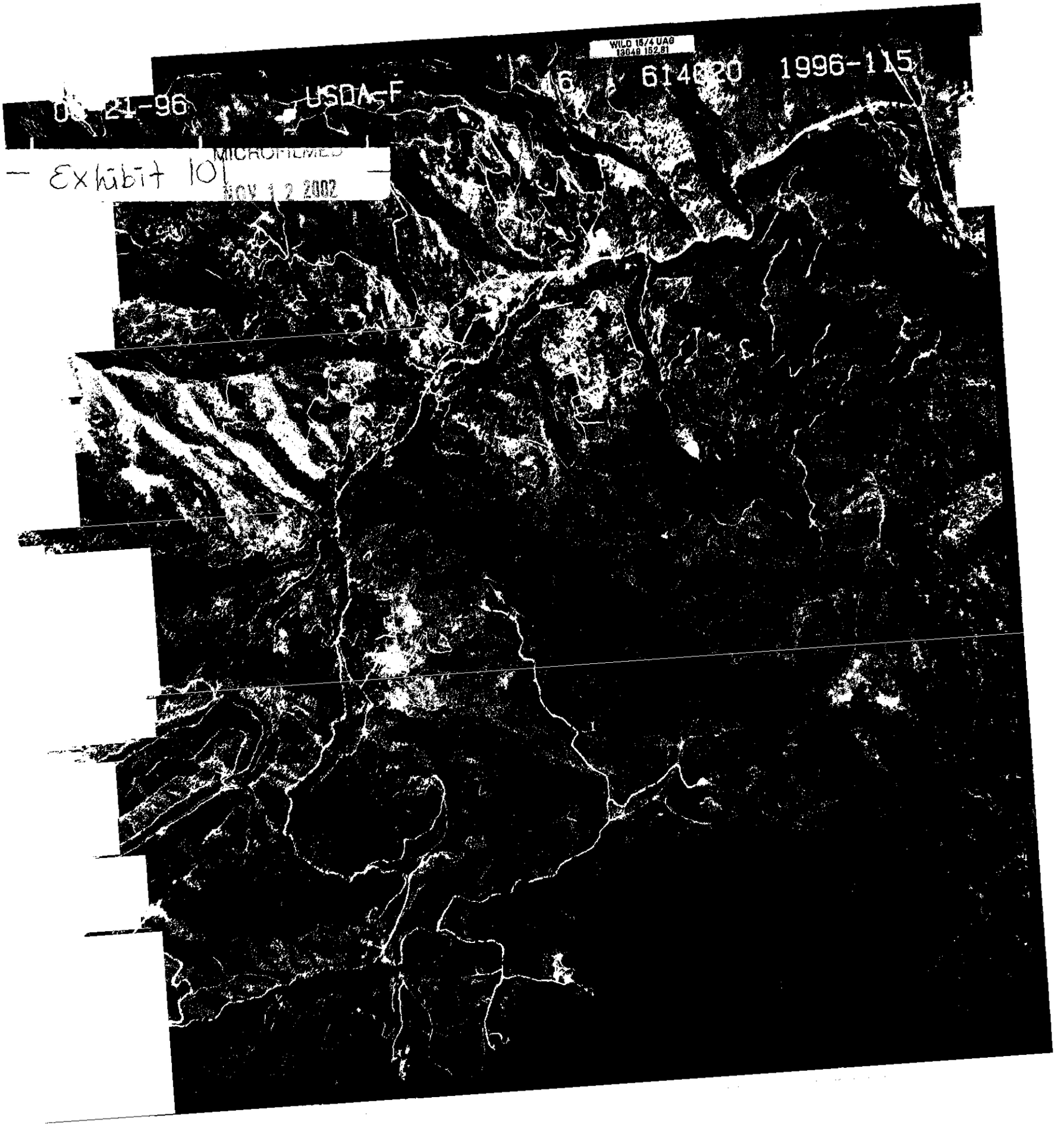
Terry M. Scanlan

Terry M. Scanlan, P.E., P.G.

Cc: Ed Mahoney
Francis Mangum
Roger Braun
Steve Neubauer
Pam Smolczynski
Debra Borley

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7-11-88
USDA-F
16
614020
288- 80
Exhibit 100
NOV 12 2002


WILD 1874 UAG
13048 152.81
08-21-96
USDA-F
614820
1996-115
Exhibit 10
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[redacted] — EXHIBIT 201 8/96 KOS_

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FEB 2[illegible] 2002
Department of Water Resources

Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\clients\5810\2\Skinner Supplemental Declaration.doc

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218

SUPPLEMENTAL DECLARATION OF FRANK SKINNER

1. I am the owner of S.O.S. Well Drilling & Pump Co., Inc. ("SOS"). I have been asked by Ed Mahoney to provide this Supplemental Declaration to the Idaho Department of Water Resources (the "Department") to clarify how SOS constructed an 8-inch well on Mr. Mahoney's property.

2. With regard to the 8-inch well, I understand that there is some question about whether SOS could drive an 8-inch casing, which has an 8 $^{5}/_{8}$-inch outside diameter, through an 8-inch borehole without damaging the casing. While there are some rock types where a casing could be damaged by driving it through a smaller diameter borehole, the decomposed granite underlying Mr. Mahoney's property is of such a nature that an 8-inch casing can be driven through the 8-inch borehole without damaging the casing. That is how SOS constructed the 8-inch well on Mr. Mahoney's property.

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MAY 2[illegible] 2002

3. Driving the 8-inch well casing through the 8-inch borehole in the clay areas creates a seal that prevents movement of water down the well from zones above the clay layer. At Mr. Mahoney's property, the 8-inch well casing, with an outside diameter of 8 $^{5}/_{8}$-inches, was driven into the 8-inch borehole between 74 feet and 118 feet and passes through a brown clay layer (85' to 95') and into a white clay layer (95' to 127'). Driving the 8-inch casing through the 8-inch borehole in the clay layers creates a seal that prevents movement of water down the well from zones above 85 feet.

4. I declare under penalty of perjury that the foregoing is true and correct

Executed on February 27, 2002.

Frank Skinner

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State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 63-31218

Priority: 03/23/2001

Maximum Diversion Rate: 0.14 CFS
Maximum Diversion Volume: 20.0 AF

This is to certify, that JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
DOMESTIC	01/01 to 12/31	0.04 CFS	
HEATING	01/01 to 12/31	0.04 CFS	
IRRIGATION	03/15 to 11/15	0.06 CFS	
AESTHETIC STORAGE	01/01 to 12/31		20.0 AF
RECREATION STORAGE	01/01 to 12/31		20.0 AF
WILDLIFE STORAGE	01/01 to 12/31		20.0 AF
FIRE PROTECTION STORAGE	01/01 to 12/31		20.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SE¼NE¼ Sec. 32, Twp 05N, Rge 04E, B.M. BOISE County
GROUND WATER SE¼NE¼ Sec. 32, Twp 05N, Rge 04E, B.M. BOISE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N 04E 32				2.0													2.0

PLACE OF USE: DOMESTIC, same as Irrigation
PLACE OF USE: HEATING, same as Irrigation
PLACE OF USE: AESTHETIC STORAGE, same as Irrigation
PLACE OF USE: RECREATION STORAGE, same as Irrigation
PLACE OF USE: WILDLIFE STORAGE, same as Irrigation
PLACE OF USE: FIRE PROTECTION STORAGE, same as Irrigation

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 1, 2003.**
2. Subject to all prior water rights.
3. See Preliminary Order dated November 30, 2001, for all other conditions of approval.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 8TH day of FEBRUARY, 2002.

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FEB 12 2002

Acting for KARL J DREHER, Director

Form No. 217
6/00

FOR OFFICE USE ONLY
Amt. of Fee $ 50.00
Receipt No. 0066800
Receipt By: 1-9-03
Date Receipted: 1-9-03

RECEIVED
JAN 9 2003
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

*The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, **or** be accompanied by a completed field examination report prepared by a certified water right examiner.*

1. Permit No. 63-31218 Telephone No. 208-392-4490
2. Name of Permit Holder(s): JAMES E. MAHONEY
3. Mailing Address: 53 SETTLERS RD
   City BOISE State ID Zip 83716
4. Source of Water: GROUNDWATER If **GROUNDWATER** (well), Date Drilled: mo. 10 / yr. 99
   Well Driller: SOS WELL DRILLING & PUMP CO Drilling Permit Number: 73372 731652
5. Use(s) (as authorized by the water right permit):
   Domestic (No. of households): 1 Stockwater (No. and type of stock): _____
   Irrigation (No. of acres): 5 Other: HEATING, AESTHETIC STORAGE, REC. STORAGE, WILDLIFE STORAGE, FIRE PROTECTION
6. Total rate of diversion and/or volume for which proof is submitted: 0.14 cfs **OR** 20.0 acre-feet
7. Measuring Device Requirement: **(refer to the approval conditions on your permit and respond accordingly)**
   (*This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)*

   Measuring Device: Is a measuring device required? Yes X **or** No _____
   Has the measuring device been installed? Yes X **or** No _____
8. Fee Enclosed: $ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
   Name: JAMES E. MAHONEY Telephone Number: 3924490, 3684041
   Address: 53 SETTLERS RD, BOISE 83716
10. ***The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.***

Signature of permit holder: James E Mahoney Date: 1-7-03
(include your title, if on behalf of company or organization)

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MAR 1 1 2003

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218 IN THE NAME OF JAMES E. MAHONEY	))))	**ORDER DENYING PETITIONS FOR RECONSIDERATION**

On November 30, 2001, a Preliminary Order was entered approving Application for Permit No. 63-31218 with conditions. The Preliminary Order was mailed to the parties on December 3, 2001. On December 17, 2001, the Department of Water Resources ("Department") received the following responses to the Preliminary Order:

1. Applicant, James E. Mahoney faxed to the Department a document entitled "Motion for Clarification and Motion for Reconsideration." The document was also mailed to the Department and to the other parties.

2. Protestants Kevin D. Smith and Debra A. Borley submitted a petition for reconsideration. The document does not show whether it was served upon the other parties.

3. Protestants Pamella J. and Rob Smolczynski submitted a letter listing concerns with the Preliminary Order and requesting that the Department "...address our concerns and obtain and assess all information prior to issuing an order that approves this proposed usage." The Department did not receive any information to indicate that the letter had been provided to the other parties.

The hearing officer will respond to the three documents as timely filed petitions for reconsideration under Department Rules of Procedure, IDAPA 37.01.01.730.

HEARING OFFICER'S RESPONSE

APPLICANT'S PETITION FOR CLARIFICATION AND RECONSIDERATION

1. *The Applicant seeks clarification or modification of Condition No. 6 in the Proposed Order.* As presumed by the applicant, this condition "...derives from Finding of Fact No. 10 which finds that the driller's reports for Mahoney's wells do not confirm that water is prevented from draining down the annular space and that the 2001 pump test designed by Terry Scanlan did not account for the wells' effects on water zones that may be draining down the wells." The pump test did not assess the effect that drainage of these water zones may or may not have had on water availability to other water rights in the area. Because the Applicant bears the burden of showing that the proposed use will not reduce the quantity of water available to other water rights, Condition No. 6 requires that the applicant either provide the information necessary to show that his wells are

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constructed to prevent drainage from the upper water zones or reconstruct the wells to prevent drainage around the outside of the well casing from these zones. If the water bearing zones can be shown to be unaffected by the Applicant's wells, the pump test results are adequate to show that the use of the Applicant's wells does not have a significant effect on other rights.

In order for the Department to determine if the Applicant's wells are adequately cased and sealed to prevent leakage from the upper water bearing zones one of the following must occur:

a. The Applicant submits additional information, or clarifies existing information to demonstrate that the present construction of the Applicant's wells is adequate. For example, details of the construction methods used by the well driller may confirm that the annular space around the casing of the wells is adequately sealed to prevent leakage. Information such as described in the Applicant's petition and the technical analysis included in "Declaration of Terry M. Scanlan, P.E., P.G.," if augmented to document that the casings could be driven without damage into the formations encountered, will be adequate to show that the well casings are sealed. Down hole geophysical logging techniques or camera surveys may also supply information to show the wells are sealed.

b. The Applicant submits information that the Applicant's existing wells have been reconstructed using techniques such as pressure grouting of the annular space.

c. The Applicant submits information that a new well(s) has been constructed and the Applicant's existing wells have been abandoned to assure that leakage is not occurring.

2. *The Applicant seeks clarification or amendment of Condition No. 3 of the Proposed Order to address the practicality of installing measurement equipment and measuring static water levels with snow covering the area.* The purpose of the permit condition is to provide data concerning ground water levels and water diversions during the permit development period for licensing purposes and provide a baseline for evaluating whether the ground water resource is being depleted. The permit development period is initiated by the issuance of a permit document after the Department's decision on this matter becomes final. The issuance of the permit and the development period deadline set by the permit will be timed to allow for the practical installation of the measuring equipment and data collection.

KEVIN D. SMITH AND DEBRA A. BORLEY PETITION FOR RECONSIDERATION

1. *The Protestants assert that "the proposed use is contrary to conservation."* Conservation of water for use in Idaho is a criterion that must be considered as applications to appropriate water are processed. Based upon the hearing record, the Preliminary Order finds that the irrigation and heating systems will efficiently use water. Finding of Fact no. 11(c). However, it appears that the Protestants are not as much

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concerned with the efficiency of use of the water as they are with the nature and size of the uses of the water, particularly the maintenance of pond levels throughout the year. Idaho law provides for the appropriation of unappropriated water for beneficial uses that do not conflict with the local public interest. Section 42-203A(5)(e), Idaho Code. The Preliminary Order, based upon the hearing record (see Finding of Fact no. 11(b)) finds that the proposed uses do not conflict with the local public interest. Because the Applicant is not relying upon the exemption from permitting for domestic uses under Section 42-227, Idaho Code, and has instead filed Application for Permit No. 63-31218, his water diversion and use does not have to be limited to 13,000 gallons per day.

2. *The Protestants argue that although the observed drop in the water level in their wells resulting from the pump test on the Applicant's wells was not large, the relatively short duration of the pump test was not adequate to determine that long-term use of the Applicant's wells will not significantly lower water levels in their wells.* Data from the pump test included in Applicant's Exhibit 7 indicate that the Protestants' wells begin to respond to the Applicant's pumping changes after about one day and the changes tended toward equilibrium prior to the end of the non-pumping/pumping phases of the pump test. Water levels in the Protestants' wells during the pump test were at or near the levels shown on the driller's reports. This indicates that use of the Applicant's wells for approximately one year (See Applicant's Exhibit 7, Page 3) has not significantly reduced water availability at the Protestants' wells. The available information supports Conclusion of Law no. 4 that the proposed use will not reduce the supply of water available to existing rights if the Applicant complies with the permit conditions.

3. *The Protestants' "...request a more specific definition of 'reasonable pumping level' specified in paragraph #8 of the order. Such as: A drop of ten feet."* Prior appropriators of ground water are protected in the maintenance of reasonable ground water pumping levels. Section 42-226, Idaho Code. The record from the hearing on this matter is not an adequate basis for determining the reasonable ground water pumping level. A level determined at this time may not be reasonable in the future as economic conditions and other factors that may be important to determining a reasonable ground water pumping level change. Because the technical information in the hearing record indicates that the Applicant's diversion and use of water will not significantly affect ground water levels in the area, determination of a reasonable pumping level is not necessary at this time. If pumping levels decline because of water diversion and use by the holders of junior priority ground water rights, the holders of earlier priority rights to ground water are entitled to petition for relief under the Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11.

PAMELA AND ROB SMOLCZYNSKI PETITION FOR RECONSIDERATION

1. *The Protestants are concerned that the impacts to Clear Creek were not studied.* A letter report prepared by Terry M. Scanlan (Applicant's Exhibit 4, at Page 5), addresses the impact of the Applicant's proposed water use on Clear Creek. Mr. Scanlan anticipates that the Applicant's water use will not directly induce losses from Clear Creek and that the effect on Clear Creek flows will take months or years to develop. Mr.

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Scanlan testified that the depletion would average about 6 gpm throughout the year and that this reduction in flow of Clear Creek would not be measureable.

2. *The Protestants are concerned that the Applicant's mitigation plan only addresses Boise River water right curtailment and does not address local impacts.* The mitigation plan only needs to address the effect of flow depletion downstream from Lucky Peak Dam. The Water District 63 Watermaster actively administers water diversions from the Boise River below Lucky Peak Dam to curtail diversions under junior priority water rights when the flow is not adequate to satisfy all senior priority rights. Water consumptively used above Lucky Peak Dam reduces the water supply in the Boise River below Lucky Peak Dam. Without mitigation, additional use above Lucky Peak Dam will injure existing rights downstream. However, the hearing record indicates that unappropriated water is available relative to other rights to use the water in the Clear Creek area so an active mitigation plan is not required to prevent injury to existing rights from Clear Creek

3. *The Protestants request that a hearing be held after all information on "beneficial use justification" is gathered and disseminated to interested persons.* The application lists and describes in detail the uses sought to be made. The uses listed on the application are commonly recognized as beneficial uses in water right permits and licenses issued by the Department and in decrees issued by the court. The Applicant provided testimony and evidence at the hearing concerning the beneficial uses sought. To the extent that the Protestants believed that they needed additional information on the proposed beneficial uses, the Department's Rules of Procedure (IDAPA 37.01.01) provide for discovery, which the protestants did not pursue. Another hearing is not provided for by law and is not necessary.

4. *The Protestants request that Condition No. 2 incorporate a schedule and plan for reporting rates and volumes in relation to static water levels to accommodate seasonal changes in use to be made as long as the water right is exercised.* Condition No. 3 incorporates an adequate schedule and plan by requiring monthly measurement of diversions under the permit and ground water levels. The need to continue measuring and reporting of diversions and water levels will be assessed when a license is issued. Condition No. 3 satisfies the request of the Petitioners without the requested modification to Condition No. 2.

5. *The Protestants request that monitoring of water levels be a continuing requirement, that the monitoring requirement be expanded to include the wells owned by neighbors, that the Applicant's six-inch well also be monitored, and that the monitoring results be published with monthly trend analyses.* The close spacing of the Applicant's wells and the correlation of the water level trends in the Applicant's wells documented by the pump test make measurement in both wells unnecessary. Because the pump test on the Applicant's well and other technical data demonstrate limited or no impacts on neighboring wells, monitoring of water levels in neighboring wells is not warranted. The need for continued monitoring and reporting will be assessed at the time of licensing.

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Water diversion and water level data submitted to the Department are public information and will be provided to the Protestants upon request.

6. *The Protestants express concern that the "reasonable pumping level" requirement may affect their property values and pose several questions relative to how a reasonable pumping level is determined and established.* The hearing record indicates that use of ground water in accordance with the permit will not significantly impact the availability of water to the Protestants. Section 42-226, Idaho Code, provides that prior appropriators of ground water are protected in the maintenance of reasonable ground water pumping levels. The hearing record is not adequate for determining the reasonable ground water pumping level, and a level determined at this time may not be reasonable in the future as economic conditions and other factors that may be important to determining a reasonable ground water pumping level change. If pumping levels decline because of water diversion and use by the holders of junior priority ground water rights, the holders of earlier priority rights to ground water are entitled to petition for relief under the Rules for Conjunctive Management of Surface and Ground Water Resources, IDAPA 37.03.11. The Protestants also pose several legal questions that should be addressed to their legal counsel.

7. *The Protestants question whether surface water rights should be transferred from the Treasure Valley to a high-elevation ground water source.* Approval of Permit No. 63-31218 establishes a new water right and does not transfer an existing right. The 1865 priority surface water right is not transferred to the ground water source, but is used to mitigate depletions in water availability to senior priority rights from the reach of the Boise River downstream from Lucky Peak Dam known to be fully appropriated at times during most years.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED That the petitions for reconsideration filed by the Applicant, James E. Mahoney, the Protestants Kevin D. Smith and Debra A. Borley, and the Protestants Pamella J. and Rob Smolczynski: are **DENIED**. The Applicant's petition for clarification is approved to the extent further clarification is provided by the hearing officer's response in this order.

Signed at Boise, Idaho this 4TH day of January, 2002.

Norman C. Young
Hearing Officer

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 7th day of January, 2002, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

Jeff Fereday
Attorney at Law
P.O. Box 2720
Boise, ID 83701

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

December 31, 2002

JAMES E MAHONEY
53 SETTLERS RD
BOISE, ID 83716

PROOF DUE NOTICE

RE: PERMIT NO. 63-31218

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before March 01, 2003. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau

Enclosures

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MAR 1 1 2003

CERTIFIED MAIL
7000 1670 0013
9129 9843

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

May 24, 2002

John Marshall
Givens Pursley, LLP
P.O. Box 2720
Boise, Idaho 83701

Re: Permit No. 63-31218 (Mahoney)

Dear Mr. Marshall:

Condition No. 6 of the Preliminary Order dated November 30, 2001, approving Application for Permit No. 63-31218 required the permitholder to provide information to the Department demonstrating that the permitholder's wells were constructed or reconstructed to prevent ground water occurring above 100 feet below land surface from entering the wells. You submitted information to the Department with copies to all parties in response to this condition on January 4, 2002. Department staff has completed a review of the information available concerning the construction of the wells and has concluded that the construction of the wells is adequate to satisfy the condition based upon the information now available. A copy of the staff memorandum reviewing the information is enclosed.

Sincerely,

Norman C. Young
Administrator
Water Management Division

Encl. Memorandum dated May 23, 2002
c. Kevin Smith and Debora Borley
Robert and Pamella Smolczynski

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NOV 12 2002

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Memorandum

May 23, 2002

TO: Norm Young, Administrator
FROM: Mark Slifka, MS

RE: Mahoney Wells

John Carlson and I reviewed the well construction details described on the well driller's reports for the two wells (an 8-inch well and a 6-inch well) drilled by SOS Well Drilling for Mr. Ed Mahoney. Additionally, I reviewed the hearing declaration provided by Mr. Frank Skinner, SOS Well Drilling, dated December 26, 2001 concerning the construction of the above-mentioned wells.

Two principle issues were considered:

1] the amount of bentonite clay seal that was placed in each well relative to the volume of the annular space to be sealed as a result of the 10-inch over bored hole.
2] the vertical location of the separately described aquifers and well construction (casing and sealing) in each well to determine if it appeared, based on the well driller's reports and the declarations of the well driller, that the shallow aquifers were effectively cased from cascading into the deeper aquifers.

On the first issue regarding the surface seals: the amount of bentonite clay placed in each well's annular space closely approximates or exceeds the calculated annular space volume, causing us to believe the interval drilled with a 10-inch overbore is properly sealed in both wells. In fact, some clay may have traveled below the 21-foot over bore along side the casing in the 6-inch well providing some additional sealing.

On the second issue regarding the isolation of shallower aquifers from the deeper aquifers: A) on the 8-inch well, it appears that the 8-inch casing (without a drive shoe) was advanced from about 74 feet through 11 feet of broken black rock, then through a 10 foot clay bed and terminated in a white clay and decomposed granite at 118 feet. This casing should be sealed in the clays as no drive shoe was used. We were curious as to how casing could have been advanced through "broken rock" without being damaged, except that some of these lava flows in the area are broken and crumbly, described as "water affected basalts", which were deposited in a subaquious environment. These basalts are softer than regular basalt and readily drilled. B) the 6-inch well is reported to

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have a 6-inch steel casing driven from 21 to 165 through several clay beds and decomposed granite and sand. A water bearing sand encountered at 121-137 feet was isolated from the deeper aquifers by casing being terminated into white clay with strips of white decomposed granite. This lower, clay rich formation likely forms a good seal for the bottom of the casing and casing shoe, which should prevent the water above it from entering the well or commingling with deeper aquifers. Since only one aquifer is described above the shoe seal there is no evidence that there is any commingling of shallower aquifers above the shoe seal.

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State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 1, 2002

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

Re: In the matter of application for permit no. 63-31218
in the name of James E. Mahoney

Dear Interested Parties:

Enclosed for your information is a copy of a Supplemental Declaration of Frank Skinner filed by the Applicant's attorneys, which responds to Condition No. 6 in the department's Order in this matter.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.
cc: Gary Spackman - Western Region

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MAY 2 1 2002

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FEB 28 2002
Department of Water Resources

GIVENS PURSLEY LLP

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Direct Dial: (208) 388-1270
E-Mail: jmm@givenspursley.com

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Emily MacMaster Durkee*
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Timothy P. Fearnside
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Amanda L. Keating
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Brad V. Sneed
Conley E. Ward
Robert B. White

Raymond D. Givens
James A. McClure
Stephanie C. Westermeier
OF COUNSEL
*Licensed in California only

February 27, 2002

VIA US MAIL

Norman C. Young
Idaho Department of Water Resources
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: In the Matter of Application for Permit No. 63-31218
Our File: 5810-2

Dear Norm:

Pursuant to our last conversation regarding Ed Mahoney's permit, I am enclosing an original and one copy of a Supplemental Declaration of Frank Skinner. This declaration addresses the final questions relating to Condition No. 6 in the Order, specifically, whether the 8-inch well was constructed so that it is sealed from upper water bearing zones.

Please acknowledge receipt of this document by date stamping the copy and returning it to me in the enclosed, self-addressed, stamped envelope. Please call me if you have any questions.

Sincerely,

John M. Marshall

JMM/tns
Enclosure
cc: Ed Mahoney
S:\Clients\5810\2\Corr\2002-2-27 IDWR Skinner supp Declr.doc

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MAY 2 1 2002

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 11, 2002

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

RE: Permit No. 63-31218

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

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NOV 12 2002

If you have any questions, please contact me at 208-327-7946.

Sincerely,

Shelley W. Keen

Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure(s)

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NOV 12 2002

CERTIFICATE OF MAILING

I hereby certify that on February 11, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 63-31218

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

Kari Lynn Townsend

Kari Lynn Townsend
Secretary

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NOV 1 2 2002

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

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FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

> Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
>
> (a) the petition for reconsideration is disposed of; or
> (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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NOV 12 2002

JAN - 4 2002

GIVENS PURSLEY LLP

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Direct Dial: (208) 388-1270
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Gary G. Allen
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Michael C. Creamer
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Virginia L. Stukel
Conley E. Ward
Robert B. White

Raymond D. Givens
James A. McClure
Stephanie C. Westermeier
OF COUNSEL
*Licensed in California only

January 3, 2002

VIA US MAIL

Idaho Department of Water Resources
Attn: Norman C. Young
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Application for Permit No. 63-31218
Our File: 5810-2

Dear Norm:

Enclosed for filing, please find the Declaration of Frank Skinner concerning Application for Permit No. 63-31218 in the name of James E. Mahoney. Mr. Skinner's Declaration is submitted to comply with condition No. 6 in the Preliminary Order.

I have enclosed a copy of this Declaration, please date stamp it and return it in the enclosed self-addressed, stamped envelope. If you have any question, please call me.

Sincerely,

John M. Marshall

JMM/tns
Enclosure
cc: Ed Mahoney
S:\CLIENTS\5810\2\Corr\2002-1-3 young IDWR.doc

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JAN 1 2 2002

Jeffrey C. Fereday ISB #2719
John M. Marshall ISB #5628
GIVENS PURSLEY LLP
277 North Sixth Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
S:\clients\5810\02\Skinner Declaration - Motion for reconsideration.doc

Attorneys for James E. Mahoney

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATION FOR PERMIT NO. 63-31218	DECLARATION OF FRANK SKINNER

1. I am the owner of S.O.S. Well Drilling & Pump Co., Inc. ("SOS"). I have been asked by Ed Mahoney to provide information to the Idaho Department of Water Resources (the "Department") regarding the construction of a 6-inch and an 8-inch well on Mr. Mahoney's property in connection with a water right permit application involving both wells.

2. Employees from SOS drilled and constructed the six-inch and eight-inch wells in question. I supervised the drilling of both wells, which were drilled and constructed in accordance with standard practices of SOS. After Mr. Mahoney contacted me recently to comment on the two wells, I reviewed the well logs for the wells to refresh my memory on how they were drilled. Copies of the well logs are attached to this Declaration.

3. The 6-inch well (Drilling Permit Tag No. D0001385) is constructed with 6-inch well casing from +1 to 165 feet depth, and 4.5-inch PVC liner from 163 to 263 feet. The casing is unperforated and the liner is perforated from 165 to 262 feet. The borehole was

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6-inch diameter from 21 feet to 263 feet and 6-inch casing was driven through the borehole below 21 feet. A 7 1/2 –inch outside diameter driveshoe was welded onto the bottom of the 6-inch casing and used to drive the 6-inch casing through the borehole. The driveshoe was driven down to a depth of 165 where it is now embedded in white clay layer and seals the annual space above 165 feet from the annual space below. Since the well liner and casing are perforated only below 165 feet, the well is sealed from any water bearing zones above the driveshoe seal at 165 feet.

4. The 8-inch well (Drilling Permit Tag No. D0012412) is constructed with 8-inch casing from +2 feet to 118 feet and 6-inch steel liner from 106 feet to 338 feet. The liner is perforated from 230 to 270 feet and from 290 feet to 338 feet. The Well Driller's Report indicates that the borehole was 8-inch diameter from 74 feet to 338 feet. The 8-inch well casing, with an outside diameter of 8 $^{5}/_{8}$-inches, was driven into the borehole between 74 feet and 118 feet and passes through a brown clay layer (85' to 95') and into a white clay layer (95' to 127'). Driving the 8-inch casing through the 8-inch borehole in the clay layers creates a seal that prevents movement of water down the well from zones above 85 feet.

5. I declare under penalty of perjury that the foregoing is true and correct

Executed on December 26, 2001.

Frank Skinner

Frank Skinner

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DEC 2 2 2002

Certificate of Service

I hereby certify that on this 3rd day of ~~December~~ January, 2002, I caused to be served a true and correct copy of the foregoing by US Mail, and addressed to the following:

Kevin Smith and Debra Borley
70 Settlers Rd.
Boise, ID 83716

Robert & Pamella Smolczynski
75 Settlers Rd.
Boise, ID 83716

John M. Marshall

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NOV 12 2002

Form 238-7
3/95-C96

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by _____
Twp _____ Rge _____ Sec _____
_____ 1/4 _____ 1/4 _____ 1/4
Lat: Long:

1. DRILLING PERMIT NO. __-__-__-____-____
Other IDWR No. D0012412

2. OWNER:
Name Ed Mahoney
Address 530 Settlers Rd
City Boise State ID Zip 83716

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N / W / E / S

Twp. 5 North ☒ or South ☐
Rge. 4 East ☒ or West ☐
Sec. 32 1/4 SW 1/4 NE 1/4
Gov't lot _____ County Boise
Lat: Long:
Address of Well Site 53 Settlers Rd
City Boise
(Give street name of road + Distance to road or Landmark)
Lt. _____ Blk. _____ Sub. Name _____

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK Material	From	To	AMOUNT Sacks or Pounds	METHOD
bentonite	2'	181'	7	overbore

Was drive shoe used? ☐ Y ☒ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
8"	+2'	118'	.250	Steel	☒	☐	☒	☐
6"	106'	338'	.250	Steel	☐	☒	☒	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method torch
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
230'	270'		200	6"	Steel	☐	☒
290'	338'		200	6"	Steel	☐	☒
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
115ft. below ground Artesian Pressure _____ lb
Depth flow encountered _____ ft. Describe access port or control devices: _____

11. WELL TESTS:
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
60 GPM		280'	1 hr
40 GPM		220'	

Water Temp. _____ Bottom hole temp. _____
Water Quality test or comments: _____
Depth first Water Encountered 56'

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temp.	Water Y	Water N
10"	0'	4'	brown top soil		☒
10"	4'	6'	brown decomposed granite		☒
10"	6'	13'	brown clay		☒
10"	13'	18'	brown clay & gravel		☒
10"	18'	23'	brown gravel		☒
10"	23'	25'	boulders		☒
10"	25'	43'	brown clay & decomposed granite		☒
10"	43'	45'	brown rock		☒
10"	45'	56'	black rock		☒
10"	56'	67'	brown decomposed granite	☒	
10"	67'	74'	black rock		☒
8"	74'	85'	broken black rock	☒	
8"	85'	95'	brown clay		☒
8"	95'	127'	white clay & decomposed granite		☒
8"	127'	130'	white decomposed granite	☒	
8"	130'	146'	white clay & decomposed granite		☒
8"	146'	162'	white decomposed granite	☒	
8"	162'	191'	white clay & decomposed granite		☒
8"	191'	205'	white & brown decomposed granite	☒	
8"	205'	215'	blue clay		☒
8"	215'	255'	green & white granite		☒
8"	255'	260'	white decomposed granite	☒	
8"	260'	290'	white & brown granite		☒
8"	290'	325'	white decomposed granite	☒	
8"	325'	338'	brown & white granite		☒

Completed Depth: 340 (Measurable)
Date: Started 10-20-99 Completed 10-23-99

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name SOS Welldrilling & Pump Co. Firm No. 212
Firm Official Tony Hackett Date 11/8/99
Supervisor or Operator Larry Kinsley Date 11/8/99
(Sign once if Firm Official & Operator)

Date: 10/29/99 Time: 12:50 PM

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NOV 12 2002

C

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Office Use Only
Inspected by: _____
Twp ____ Rge ____ Sec ____
____ 1/4 ____ 1/4 ____ 1/4
Lat: ____ Long: ____

1. DRILLING PERMIT NO. 63 97 W 0675 000
Other IDWR No. D0001389

2. OWNER:
Name Ed Mahoney
Address 1880 Bruton
City Boise State ID Zip 83713

3. LOCATION OF WELL by legal description:
Sketch map location must agree with written location

N
W E
S

Twp 5 North ☒ or South ☐
Rge 4 East ☒ or West ☐
Sec. 32 1/4 SW 1/4 NE 1/4
Gov't lot ____ County Boise
Lat: ____ Long: ____
Address of Well Site _____
City ID City
Lot 1 Blk. 4 Sub. Name Timber Mtn. Ranch

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other

6. DRILL METHOD:
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other

7. SEALING PROCEDURES

SEAL OR GUR PACK			AMOUNT	METHOD
Material	From	To	Backs or Pounds	
bentonite	5	21	7	gravity

Was drive shoe used? ☒ Y ☐ N Shoe Depth(s) _____
Was drive shoe seal tested? ☐ Y ☒ N How? _____

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	+1	163	250	steel	☒	☐	☒	☐
4.5"	163	263	S.40	PVC	☐	☒	☐	☐
					☐	☐	☐	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS
☒ Perforations Method saw
☐ Screens Screen Type _____

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
163	262		500	4.5"	PVC	☐	☒
						☐	☐
						☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:
21ft. below ground Artesian Pressure ____ lb
Depth flow encountered ____ ft. Describe access port or control devices: _____

11. WELL TESTS: ☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Pumping Level	Time
15		140	3 hrs

Water Temp. _____ Bottom hole temp. _____
Water Quality lab or comments: _____
Depth First Water Encountered 121

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Hole Dia.	From	To	Remarks: Lithology, Water Quality & Temp.	Y	N
10"	0	1	brown top soil		☒
10"	1	16	hard brown clay		☒
10"	16	31	hard green clay		☒
6"	31	65	hard brown clay		☒
6"	65	75	brown decomposed granite		☒
6"	75	108	brown clay		☒
6"	108	110	green granite boulder		☒
6"	110	121	brown clay		☒
6"	121	137	white quartz sand	☒	
6"	137	195	white clay w/strips of white decomposed granite	☒	
6"	195	210	white decomposed granite		☒
6"	210	223	white decomposed granite	☒	
6"	223	235	brown clay		☒
6"	235	250	green & white granite	☒	
6"	250	255	brown & white granite	☒	
6"	255	263	brown granite		☒
			depth open to 256'		
			liner to 263'		

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Completed Depth 256 (Measurable)
Date Started 11/02/97 Completed 11/06/97

13. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name BOS Well Drilling & Pump Co Firm No. 212
Firm Official Tony Hackett Date 11/24/97
Supervisor or Operator Steve A. Kinney Date 11-20-97
(Signature of Firm Official & Position)

Date 10 1997 Time 10:34 AM

CHARLES L. HONSINGER (ISB #5240)
RINGERT CLARK CHARTERED
455 S. Third, P. O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Francis and Shirley Mangum

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR WATER RIGHT NUMBER 63-31218 IN THE NAME OF JAMES E. MAHONEY	WITHDRAWAL OF PROTEST

COMES NOW, Francis and Shirley Mangum ("Mangum") by and through their attorneys, Ringert Clark, Chartered, and hereby withdraw their protest to the Application for Permit No. 63-31218 to appropriate the public waters of the State of Idaho filed by James E. Mahoney.

Respectfully submitted this 12th day of September, 2001.

RINGERT CLARK, CHARTERED

Charles L. Honsinger
Attorney for Francis and Shirley Mangum

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NOV 1 2 2002

ORIGINAL

CERTIFICATE OF SERVICE

I certify that on the 12th day of September, 2001, I mailed the original and copies of this document, including all attachments to the following:

Jeffrey C. Fereday
John Marshall
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701
FAX: (208) 388-1201

Director
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706

Rex Latham
2630 Highway 21
Boise, Idaho 83716

Kevin Smith and Debra Borley
70 Settlers Road
Idaho City, Idaho 83601

Robert and Pamella Smolczynski
75 Settlers Road
Idaho City, Idaho 83601

RINGERT CLARK CHARTERED

by: _____
CHARLES L. HONSINGER

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NOV 12 2002

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

January 7, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Re: Application for Permit No. 63-31218, in the name of James E. Mahoney

Dear Interested Parties:

The Department of Water Resources (department) has issued the enclosed **Order Denying Petition for Reconsideration** pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party files an exception and/or brief as described in the enclosed information sheet.**

Please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the department or visit our homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at (208) 327-7953.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures
c: IDWR - Regional Office

MICROFILMED
JAN 12 2002

James E. Mahoney
53 Settlers Road
Boise, ID 83716

RECEIVED
JAN 17 2003
Department of Water Resources

January 16, 2003

Deborah J Gibson
Administrative Assistant
Idaho Department of Water Resources
1301 North Orchard
Boise, Id 83706

Re: Proof of Beneficial Use on Permit No. 63-31218

Dear Ms Gibson:

Please find enclosed a revised Proof of Beneficial Use form. The previous form inadvertently indicated I am irrigating 5 acres of land, and should have correctly stated that the number of acres being irrigated is 2 acres.

The following measurement table is provided as verification of the area being irrigated:

Area Description	Length	Width	sq ft	Acres	Percent
North end of Pond	100	26	2600	0.059688	3.03%
West side of pond	440	26	11440	0.262626	13.32%
House to South end of pond	240	185	44400	1.019284	51.68%
House to beginning of berm	35	25	875	0.020087	1.02%
Berm North of turnaround	40	100	4000	0.091827	4.66%
East side of driveway	40	120	4800	0.110193	5.59%
West side of drive	70	26	1820	0.041781	2.12%
West side of drive	70	26	1820	0.041781	2.12%
Retaining Wall to Turnaround	60	26	1560	0.035813	1.82%
South side of house	140	40	5600	0.128558	6.52%
West side of House	100	70	7000	0.160698	8.15%
	Total sq ft		85915	1.972337	
	Total Acres (/43560)		**1.972337**		

Measurement of Water Diverted

Per requirements of the Prelim Order, 3 Flow Meters were installed. On January 16, 2002, Mr. Butch Anderson, of Storm and Water System Management Company, installed flow meters on my 6"groundwater well, and on my injection line to the 8" groundwater well. In May of 2002, prior to any irrigation activity, Mr. Anderson completed installation of the 3rd flow meter on the 8" groundwater well. The following tables show the recordings of the monthly readings I have taken from all 3 flow meters since their installation:

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MAR 1 1 2003

Flow Meters on House

Date	8" Well Meter Reading	Injection Meter Reading	8" Well Meter Delta	Injection Meter Delta	# days	Gallons
2-Jan	0	0	0	0		
3-Feb	1,262,000	246,400	962,000	246,400	28	719,600
3-Mar	1,679,520	987,870	417,520	741,470	30	758,017
7-Apr	2,882,960	1,219,070	1,203,440	973,200	34	1,230,240
2-May	3,703,450	1,676,650	820,490	1,430,780	55	1,457,580
7-Jun	4,774,990	1,726,970	1,071,540	1,480,520	35	2,015,060
8-Jul	5,911,920	1,727,630	1,136,930	1,481,180	28	1,339,390
7-Aug	6,941,000	1,744,150	1,029,080	1,497,700	26	1,221,060
6-Sep	7,922,550	1,908,820	981,550	1,662,370	37	1,466,490
3-Oct	8,811,201	2,080,660	888,651	1,834,210	28	1,164,943
10-Nov	9,888,000	2,254,470	1,076,799	2,008,020	39	1,565,597

Irrigation Well

Date	8" Well Meter Reading	8" Well Meter Delta	# days	Gallons
22-May	17000			
2-Jun	1,208,000	1,191,000	10	1,191,000
7-Jul	3,019,000	1,811,000	35	1,811,000
7-Aug	4,218,000	1,199,000	26	1,199,000
4-Sep	5,417,000	1,199,000	26	1,199,000
2-Oct	6,617,000	1,200,000	37	1,200,000
9-Nov	7,825,000	1,208,000	28	1,208,000
16-Dec	8,993,000	1,168,000	38	1,168,000

Year to Date Pumping Summary

Date	8" Total Diversion	8" Total Delta/Use	Total Diversion	Acre Feet	# days	Gallons/Day	Average GPM
2-Jan	1,208,000	1,191,700	1,208,000	3.82	147	12,061	9.0
7-Jan	3,019,000	3,002,400	4,227,000	9.18	182	14,800	10.1
5-Aug	5,911,920	5,894,320	10,138,920	18.09	210	14,966	10.3
1-Sep	6,941,000	6,923,400	17,061,920	70.74	235	14,804	10.3
3-Oct	8,811,201	8,793,601	25,873,121	14.11	274	14,891	10.7
8-Nov	9,888,000	9,870,400	35,761,121	17.39	301	14,825	10.1
10-Dec	10,993,000	10,975,400	46,754,121	19.04	340	14,901	10.7

Measurement of Water Static Depth to Water

Per requirements of the Prelim Order, I am required to measure and record the static depth to water each month during the development period, on my 8" well used for irrigation. I have in fact, been taking monthly measurements of the static depth to water in both my wells, using a well depth meter that I own, and as trained by geo-hydrologist Terry Scanlan. I began taking readings

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MAR 1 1 2005

in June, prior to irrigating with the 8" well. The following table shows the recordings of the monthly measurements:

Well Depths - Distance to Static

Date	8" Well Static (Feet)	6" Well Flow Rate	8" Well Static (Feet)	6" Well Flow Rate
2-Jan	104.5	1.50	116.4	27.0
2-Feb	106.1	1.50	116.8	12.0
2-Mar	100.0	1.50	116.7	11.0
1-Apr	97.5	1.50	104.7	46.0
2-May	115.8	1.50	116.7	46.0
2-Jun	120.8	0.25	124.5	288.0
1-Jul	112.8	0.25	98.7	1224.0

Per your instructions, I have copied this letter to Norm Young. If this letter is not a sufficient report filing per the expectations of the preliminary order, please contact me as soon as possible.

Sincerely,

James E. Mahoney

Cc: Norm Young

MICROFILMED

 MAR 1 1 2003

Form No. 217
6/00

FOR OFFICE USE ONLY
Amt. of Fee $: _____
Receipt No. _____
Receipt By: _____
Date Receipted: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

*The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, **or** be accompanied by a completed field examination report prepared by a certified water right examiner.*

1. Permit No. 63-31218 Telephone No. 208-392-4490
2. Name of Permit Holder(s): JAMES E. MAHONEY
3. Mailing Address: 53 SETTLERS RD
   City BOISE State ID Zip 83716
4. Source of Water: GROUNDWATER If GROUNDWATER (well), Date Drilled: mo. 6 / yr. 97 (10 99)
   Well Driller: SOS WELL DRILLING & PUMP CO Drilling Permit Number: 731657 (73372)
5. Use(s) (as authorized by the water right permit):
   Domestic (No. of households): 1 Stockwater (No. and type of stock): _____
   Irrigation (No. of acres): 2 Other: HEATING, AESTHETIC STORAGE, REC. STORAGE, WILDLIFE STORAGE, FIRE PROTECTION
6. Total rate of diversion and/or volume for which proof is submitted: 0.14 cfs **OR** 20.0 acre-feet
7. Measuring Device Requirement: **(refer to the approval conditions on your permit and respond accordingly)**
   (*This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)*

   Measuring Device: Is a measuring device required? Yes X or No ____
   Has the measuring device been installed? Yes X or No ____
8. Fee Enclosed: $ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
   Name: JAMES E. MAHONEY Telephone Number: 3924490, 3645041
   Address: 53 SETTLERS RD, BOISE 83716
10. ***The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.***

Signature of permit holder: James E Mahoney Date: 1-7-03
(include your title, if on behalf of company or organization)

MICROFILMED
MAR 11 2003

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 23, 2003

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 63-31324

Dear Permit Holder:

Thank you for the quick response to my January 14, 2003 letter. The department acknowledges receipt of the amended proof of beneficial use form, and the report showing the monthly diversion amounts and static depth of water in your well as required by the Preliminary Order issued for the above-referenced permit. I will forward a copy of these documents to the Western regional office for use during the field examination.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

c: IDWR - Regional Office (w/encl.)

MICROFILMED

MAR 1 1 2003

RECEIVED
JAN 17 2003
Department of Water Resources

James E. Mahoney
53 Settlers Road
Boise, ID 83716

January 16, 2003

Deborah J Gibson
Administrative Assistant
Idaho Department of Water Resources
1301 North Orchard
Boise, Id 83706

Re: Proof of Beneficial Use on Permit No. 63-31218

Dear Ms Gibson:

Please find enclosed a revised Proof of Beneficial Use form. The previous form inadvertently indicated I am irrigating 5 acres of land, and should have correctly stated that the number of acres being irrigated is 2 acres.

The following measurement table is provided as verification of the area being irrigated:

Area Description	Length	Width	sq ft	Acres	Percent
North end of Pond	100	26	2600	0.059688	3.03%
West side of pond	440	26	11440	0.262626	13.32%
House to South end of pond	240	185	44400	1.019284	51.68%
House to beginning of berm	35	25	875	0.020087	1.02%
Berm North of turnaround	40	100	4000	0.091827	4.66%
East side of driveway	40	120	4800	0.110193	5.59%
West side of drive	70	26	1820	0.041781	2.12%
West side of drive	70	26	1820	0.041781	2.12%
Retaining Wall to Turnaround	60	26	1560	0.035813	1.82%
South side of house	140	40	5600	0.128558	6.52%
West side of House	100	70	7000	0.160698	8.15%
	Total sq ft		85915	1.972337	
	Total Acres (/43560)		**1.972337**		

Measurement of Water Diverted
Per requirements of the Prelim Order, 3 Flow Meters were installed. On January 16, 2002, Mr. Butch Anderson, of Storm and Water System Management Company, installed flow meters on my 6"groundwater well, and on my injection line to the 8" groundwater well. In May of 2002, prior to any irrigation activity, Mr. Anderson completed installation of the 3rd flow meter on the 8" groundwater well. The following tables show the recordings of the monthly readings I have taken from all 3 flow meters since their installation:

MICROFILMED

Flow Meters on House						
Date	6" Well Meter Reading	Injection Meter Reading	6" Well Meter Delta	Injection Meter Delta	#days	6"/Day
5-Jan	0	0	0	0		
3-Feb	552550	546400	552550	546400	28	19734
3-Mar	970070	957870	417520	411470	30	13917
7-Apr	1332330	1313070	362260	355200	34	10655
2-Jun	1703350	1671550	371020	358480	55	6746
7-Jul	1773860	1728070	70510	56520	35	2015
5-Aug	1811920	1747530	38060	19460	28	1359
1-Sep	1844180	1764450	32260	16920	26	1241
8-Oct	2022000	1928820	177820	164370	37	4806
6-Nov	2331200	2229080	309200	300260	28	11043
15-Dec	2863900	2754370	532700	525290	39	13659

Irrigation Well				
Date	8" Well Meter Reading	8" Well Meter Delta	#days	8"/Day
22-May	17000			
2-Jun	208700	191700	10	19170
7-Jul	901900	693200	35	19806
5-Aug	1331600	429700	28	15346
1-Sep	1671300	339700	26	13065
8-Oct	2592700	921400	37	24903
6-Nov	3352200	759500	28	27125
15-Dec	3358300	6100	39	156

Year to Date Pumping Summary							
As of Date	6" Total Diversion	8" Total Diversion	Total Diversion	Acre Feet	# days	Divert/day	Average GPM
2-Jun	1703350	191700	1895050	5.82	147	12891	9.0
7-Jul	1773860	884900	2658760	8.16	182	14609	10.1
5-Aug	1811920	1314600	3126520	9.59	210	14888	10.3
1-Sep	1844180	1654300	3498480	10.74	236	14824	10.3
8-Oct	2022000	2575700	4597700	14.11	273	16841	11.7
6-Nov	2331200	3335200	5666400	17.39	301	18825	13.1
15-Dec	2863900	3341300	6205200	19.04	340	18251	12.7

Measurement of Water Static Depth to Water

Per requirements of the Prelim Order, I am required to measure and record the static depth to water each month during the development period, on my 8" well used for irrigation. I have in fact, been taking monthly measurements of the static depth to water in both my wells, using a well depth meter that I own, and as trained by geo-hydrologist Terry Scanlan. I began taking readings

MICROFILMED

MAR 1 1 2003

in June, prior to irrigating with the 8" well. The following table shows the recordings of the monthly measurements:

Well Depths - Distance to Static				
Date	6" Well Static (btoc)	6" Well Hrs Rest	8" Well Static (btoc)	8" Well Hrs Rest
2-Jun	103.5	1.00	113.4	27.0
7-Jul	103.1	1.00	116.8	12.0
5-Aug	100.0	12.00	110.7	11.0
1-Sep	97.5	1.00	104.7	48.0
8-Oct	116.9	4.00	116.7	46.0
6-Nov	120.1	0.25	101.5	288.0
15-Dec	112.6	0.25	92.7	1224.0

Per your instructions, I have copied this letter to Norm Young. If this letter is not a sufficient report filing per the expectations of the preliminary order, please contact me as soon as possible.

Sincerely,

James E. Mahoney

Cc: Norm Young

MICROFILMED
MAR 1 1 2003

Form No. 217
6/00

Revised

FOR OFFICE USE ONLY
Amt. of Fee $: _____
Receipt No. _____
Receipt By: _____
Date Receipted: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JAN 17 2003
Department of Water Resources

PROOF OF BENEFICIAL USE

*The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, **or** be accompanied by a completed field examination report prepared by a certified water right examiner.*

1. Permit No. 63-31218 Telephone No. 208-392-4490
2. Name of Permit Holder(s): JAMES E. MAHONEY
3. Mailing Address: 53 SETTLERS RD
   City BOISE State ID Zip 83716
4. Source of Water: GROUNDWATER If GROUNDWATER (well), Date Drilled: mo. 6 / yr. 97
   Well Driller: SOS WELL DRILLING & PUMP CO Drilling Permit Number: 733727 731652
5. Use(s) (as authorized by the water right permit):
   Domestic (No. of households): 1 Stockwater (No. and type of stock): _____
   Irrigation (No. of acres): 2 Other: HEATING, AESTHETIC STORAGE, Rec. Storage, Wildlife Storage, Fire Protection
6. Total rate of diversion and/or volume for which proof is submitted: 0.14 cfs OR 20.0 acre-feet
7. Measuring Device Requirement: **(refer to the approval conditions on your permit and respond accordingly)**
   (*This question is **not optional**. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete*)

   Measuring Device: Is a measuring device required? Yes X or No ____
   Has the measuring device been installed? Yes X or No ____
8. Fee Enclosed: $ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
   Name: JAMES E. MAHONEY Telephone Number: 3924490, 3684091
   Address: 53 SETTLERS RD, BOISE 83716
10. ***The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.***

Signature of permit holder: James E Mahoney Date: 1-7-03
(include your title, if on behalf of company or organization)

MICROFILMED
MAR 1 1 2003

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 14, 2003

JAMES E MAHONEY
53 SETTLERS RD
BOISE ID 83716

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 63-31218

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. During my review of your file and based upon the proof you filed, you were permitted to develop irrigation for two (2) acres under this permit. However, according to the proof you filed, it appears you are irrigating five (5) acres, which the department would consider an expansion of use. My review included both the Permit issued on February 8, 2002, and the Preliminary Order dated November 30, 2001. I recommend that you verify the actual amount of acres you are irrigating and respond in writing to the department, or contact IDWR's Western Region at 2735 Airport Way in Boise to apply for a second water right for the additional amount of irrigated acres.

Also during my review of your file, I found that you were required by the Preliminary Order to "measure and record the volume of water diverted under this water right each month", and "measure and record the static depth to water ... each month during the permit development period". This "report" was to be submitted with the proof of beneficial use, or at the end of the permit development period. The development period deadline for this permit is **March 1, 2003**. Please file your report on or before this deadline with the department, to the attention of Norm Young.

The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

MICROFILMED
MAR 1 1 2003

If you have questions, please contact either the department's **Western** Regional Office in Boise at (208) 334-2190, or me at (208) 327-7953.

Sincerely,

Deborah J. Gibson

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures
c: IDWR - Regional Office

MICROFILMED
MAR 1 1 2003

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 63-31218 Reviewed By: dgibson Date: January 10, 2003

	Yes	No		Yes	No
Proof received timely?	X		Drilling permit required?	X	
License examination fee required?	X		Drilling permit No.:	733728 & 731652	
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:	W027487, C066800		Well driller's report filed?	X	
Additional Amount Due:			Measuring device required?	X	
Name and address same as permit?	X		Measuring device installed?	X	
~~Are the water uses~~ correct?		X	Measure device waiver requested?		

Priority Calculation

Date proof received		01/09/2003
Date proof due	-	03/01/2003
Lapse notice sent	-	
No. of days late	=	0
Holiday allowance	+	
Priority date	+	03/23/2001
New priority date	=	03/23/2001

Deficiencies of Actions Items

Acknowledge proof. Clarify condition that irrigation is for 2 acres not 5. Accept domestic use as one household even though Prelim. Order does not mention it. The domestic use is for heating. Norm
Secondly, notify ~~someone~~ that the permit holder has filed proof and that he has until 3/1/2003 to file his report regarding the well diversion volumns and water level, in accordance with the Prelim. Order.

Is your RETURN ADDR completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

KEVIN SMITH
DEBRA BORLEY
70 SETTLERS RD
BOISE ID 83716

MICROFILM

63-31218

4a. Article Number
70993220000626882567

4b. Service Type

- ☐ Registered
- ☐ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
1/17

5. Received By: *(Print Name)*
DEBRA A BORLEY

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X Debra A Borley

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEBORAH J GIBSON
DEPARTMENT OF WATER RESOURCES
1301 N. ORCHARD ST.
BOISE, ID 83706-2237

RECEIVED
JAN 15 2002
MICROFILMED

43

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "*Return Receipt Requested*" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

JEFF FEREDAY
JOHN MARSHALL
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701

63-31218

4a. Article Number

70993220000626882543

4b. Service Type

☐ Registered ☐ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

1-08-02

5. Received By: *(Print Name)*

JOSH FRATES

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*

X

PS Form **3811,** December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEBORAH J GIBSON
DEPARTMENT OF WATER RESOURCES
1301 N. ORCHARD ST.
BOISE, ID 83706-2237

MICROFILMED
NOV 12 2002

RECEIVED
JAN - 9 2002

49

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and [illegible]
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "*Return Receipt Requested*" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

ROBERT SMOLCZYNSKI
PAMELLA SMOLCZYNSKI
75 SETTLERS RD
BOISE ID 83716

MICROFILM

63-31218

4a. Article Number
70993220000626882550

4b. Service Type
☐ Registered ☐ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
1-11-02

5. Received By: *(Print Name)*
Pamella J. Smolczynski

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811**, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEBORAH J GIBSON
DEPARTMENT OF WATER RESOURCES
1301 N. ORCHARD ST.
BOISE, ID 83706-2237

RECEIVED
JAN 14 2002
Department of Water Resource

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43

CERTIFIED MAIL RECEIPT

Domestic Mail Only; No Insura

7099 3220 0006 2688 2543

Article Sent To:

Jeff Ikeday

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	**$**

MICROFILMED

1/7/02

Postmark Here

dg

Name (Please Print Clearly) (To be completed by mailer)

John Marshall, Liaison

Street, Apt. No.; or PO Box No.

P.O. Box 2720

City, State, ZIP+4

Rapid City, SD 83701

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail.
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPO[redacted]NT: Save this receipt and present it when making an [redacted]ry.

CERTIFIED MAIL RECEIPT

nestic Mail Only; No Insura

7099 3220 0006 2688 2567

Article Sent To:

Kevin Smith

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	**$**

1/7/02

Postmark Here

dlg

Name (Please Print Clearly) (To be completed by mailer)

Debra Bokelley

Street, Apt. No.; or PO Box No.

City, State, ZIP+ 4

Certified Mail Provides:

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- A signature upon delivery
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IMPORTANT: Save this receipt and present it when making an inquiry.

U.S. Postal Service

CERTIFIED MAIL RECEIPT

Domestic Mail Only; No Insurance Coverage Provided

7009 3220 0006 2688 2550

Article Sent To:

Robert & Pam Smolczynski

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	**$**

1/7/02

Postmark Here

Name (Please Print Clearly) (To be completed by mailer)

Street, Apt. No.; or PO Box No.

75 Settlers Rd.

City, State, ZIP+ 4

Bellevue, Id. 83716

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

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IMPO[redacted]NT: Save this receipt and present it when making an [redacted]ry.

EXPLANATORY INFORMATION

The accompanying order is an **Order Denying Petition for Reconsideration** of the "preliminary order" issued previously in this proceeding by the department pursuant to section 67-5243, Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after the service date of this denial of petition for reconsideration of the preliminary order, any party may in writing file exceptions to any part of the preliminary order and file a brief in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to the preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

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Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) the petition for reconsideration is disposed of; or
(b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

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